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November 28, 2017

Via Certified Mail – Return Receipt Requested
Attorney General Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Via Certified Mail – Return Receipt Requested
Attorney General – Citizen Suit Coordinator
Environmental and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

RECEIVED ON:
DEC 26 2017
ORC
EPA Region 10
Office of the Regional Administrator

Via Certified Mail – Return Receipt Requested
Administer Scott Pruitt
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, D.C. 20460

Via Certified Mail – Return Receipt Requested
Regional Acting Administrator Michelle Pirzadeh
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave., Suite 900
Seattle WA 98101

Re: *Puget Soundkeeper Alliance v. APM Terminals Tacoma, LLC, et al,* W.D. Wash. No. 3:17-cv-05016

Dear Honorable Civil Servants,

Enclosed is a copy of the second amended complaint filed November 28, 2017 in the Western District of Washington in the above-named Clean Water Act citizen suit.

Sincerely,

SMITH & LOWNEY, P.L.L.C.

By: _____
Alyssa Englebrecht, WSBA #46773

HON. BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PUGET SOUNDKEEPER ALLIANCE, Plaintiff, v. APM TERMINALS TACOMA, LLC; and PORT OF TACOMA, Defendants.	No. 3:17-cv-05016-BHS SECOND AMENDED COMPLAINT

I. INTRODUCTION

1. This action is a citizen suit brought under Section 505 of the Clean Water Act ("CWA") as amended, 33 U.S.C. § 1365. Plaintiff Puget Soundkeeper Alliance ("Soundkeeper"), seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and the award of costs, including attorneys' and expert witness fees, for Defendants APM Terminals Tacoma, LLC's ("APMT") and the Port of Tacoma's (the "Port's") repeated and ongoing violations of "effluent standards and limitations" under 33 U.S.C. § 1365, Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and the terms and conditions of the National Pollutant Discharge Elimination System ("NPDES") permit authorizing discharges of pollutants from Defendants' facility to navigable waters.

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II. JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction under Section 505(a) of the CWA, 33 U.S.C. § 1365(a). The relief requested herein is authorized by 33 U.S.C. §§ 1319(d) and 1365(a).

3. In accordance with Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), Soundkeeper notified APMT of APMT's violations of the CWA and of Soundkeeper's intent to sue under the CWA by letter dated November 2, 2016, postmarked November 3, 2016, and delivered on November 7, 2016 ("APMT Notice Letter"). A copy of the APMT Notice Letter is attached to this complaint as Exhibit 1. The allegations in the APMT Notice Letter are incorporated herein by this reference. In accordance with 33 U.S.C. § 1365(b)(1)(A) and 40 C.F.R. § 135.2(a)(1), Soundkeeper provided copies of the Notice Letter to APMT's Registered Agent, the Administrator of the United States Environmental Protection Agency ("USEPA"), the Administrator of USEPA Region 10, and the Director of the Washington Department of Ecology ("WDOE") by mailing copies to these individuals on November 3, 2016. Plaintiff notified APMT of APMT's additional violations of the CWA, subsequently discovered by Soundkeeper, and of Soundkeeper's intent to sue under the CWA for those additional violations by letter dated December 14, 2016, postmarked December 15, 2016, and delivered December 20, 2016 ("APMT Supplemental Notice Letter"). A copy of the APMT Supplemental Notice Letter is attached to this complaint as Exhibit 2. The allegations in the APMT Supplemental Notice Letter are incorporated herein by this reference. Soundkeeper notified APMT's Registered Agent, APMT's counsel of record, the Administrator of the USEPA, the Administrator of USEPA

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Region 10, and the Director of the WDOE of its intent to sue APMT by mailing copies of the Supplemental Notice Letter to those officials on December 15, 2016.

4. In accordance with Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), Soundkeeper notified the Port of the Port's violations of the CWA and of Soundkeeper's intent to sue under the CWA by letter dated July 20, 2017, postmarked the same date, and delivered on July 24, 2017 ("Port Notice Letter"). A copy of the Port Notice Letter is attached to this second amended complaint as Exhibit 3.[1] The allegations in the Port Notice Letter are incorporated herein by this reference. In accordance with 33 U.S.C. § 1365(b)(1)(A) and 40 C.F.R. § 135.2(a)(1), Soundkeeper provided copies of the Notice Letter to Port Commissioners, the Administrator of the United States Environmental Protection Agency ("USEPA"), the Administrator of USEPA Region 10, and the Director of the Washington Department of WDOE by mailing copies to these individuals on July 20, 2017.

5. At the time of the filing of this Second Amended Complaint, more than sixty (60) days have passed since the notice letters were served and copies thereof were issued in the manner described in the preceding paragraphs.

6. The violations complained of in the notice letters are continuing or are reasonably likely to re-occur. Defendants are in violation of the NPDES permit and the CWA.

7. At the time of the filing of this Second Amended Complaint, neither the USEPA nor the WDOE has commenced any action constituting diligent prosecution to redress these violations.

[1] Exhibit 3 does not include the original Attachment A to the Port Notice Letter, which is the First Amended Complaint, Dkt. 11.

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8. The source of the violations complained of is located in Pierce County, Washington, within the Western District of Washington, and venue is therefore appropriate in the Western District of Washington under Section 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1).

III. PARTIES

9. Plaintiff Soundkeeper is suing on behalf of itself and its member(s). Soundkeeper is a non-profit corporation organized under the laws of the State of Washington. Soundkeeper is a membership organization and has at least one member who is injured by Defendants' violations. Soundkeeper is dedicated to protecting and preserving the Puget Sound by tracking down and stopping the discharge of toxic pollutants into its waters.

10. Plaintiff has representational standing to bring this action. Soundkeeper's members are reasonably concerned about the effects of discharges of pollutants, including stormwater from Defendants' facility, on aquatic species and wildlife that Soundkeeper's members observe, study, and enjoy. Soundkeeper's members are further concerned about the effects of discharges from Defendants' facility on human health. In addition, discharges from Defendants' facility lessen Soundkeeper's members' aesthetic enjoyment of nearby areas. Soundkeeper has members who live, work, fish, and recreate around Commencement Bay and/or the Puget Sound and are affected by Defendants' discharges. Soundkeeper members' concerns about the effects of Defendants' discharges are aggravated by Defendants' failure to record and timely report information about its discharges and pollution controls. The recreational, scientific, economic, aesthetic and/or health interest of Soundkeeper and its members have been, are being, and will be adversely affected by Defendants' violations of the CWA. The relief sought in this lawsuit can redress the injuries to these interests.

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11. Soundkeeper has organizational standing to bring this action. Soundkeeper has been actively engaged in a variety of educational and advocacy efforts to improve water quality and to address sources of water quality degradation in the waters of western Washington, including Commencement Bay and/or the Puget Sound. Defendants have failed to fulfill monitoring, recordkeeping, reporting and planning requirements, among others, necessary for compliance with its NPDES permit and the CWA. As a result, Soundkeeper is deprived of information necessary to properly serve its members by providing information and taking appropriate action to advance its mission. Soundkeeper's efforts to educate and advocate for greater environmental protection, and to ensure the success of environmental restoration projects implemented for the benefit of its members are also precluded. Finally, Soundkeeper and the public are deprived of information that influences members of the public to become members of Soundkeeper, thereby reducing Soundkeeper's membership numbers. Thus, Soundkeeper's organizational interests have been adversely affected by Defendants' violations. These injuries are fairly traceable to Defendants' violations and are redressable by the Court.

12. APMT is a corporation authorized to conduct business under the laws of the State of Washington.

13. APMT leases and operates a large marine cargo terminal used for ship unloading and cargo distribution located at or about 1675 Lincoln Ave, Tacoma, WA 98241, and contiguous and/or adjacent properties (the "facility").

14. Defendant Port of Tacoma is a port district under the state laws governing ports or port districts.

15. Defendant Port of Tacoma is the owner of the facility.

IV. LEGAL BACKGROUND

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16. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person, unless in compliance with the provisions of the CWA. Section 301(a) prohibits, inter alia, such discharges not authorized by, or in violation of, the terms of a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

17. The State of Washington has established a federally approved state NPDES program administered by the WDOE. Wash. Rev. Code § 90.48.260; Wash. Admin. Code ch. 173-220. This program was approved by the Administrator of the USEPA pursuant to 33 U.S.C. § 1342(b).

18. The WDOE has repeatedly issued the Industrial Stormwater General Permit ("Permit") under Section 402(a) of the CWA, 33 U.S.C. § 1342(a), most recently on October 21, 2009, effective January 1, 2010, modified May 16, 2012 (the "2010 Permit"), and on December 3, 2014, effective January 2, 2015 (the "2015 Permit"). The 2010 Permit and the 2015 Permit (collectively, "the Permits") contain substantially similar requirements and authorize those that obtain coverage thereunder to discharge stormwater associated with industrial activity, a pollutant under the CWA, and other pollutants contained in the stormwater to the waters of the State subject to certain terms and conditions.

19. The Permits impose certain terms and conditions on those covered thereby, including monitoring and sampling of discharges, reporting and recordkeeping requirements, as well as restrictions on the quality of stormwater discharges. To reduce and eliminate pollutant concentrations in stormwater discharges, the Permits require, among other things, that permittees develop and implement best management practices ("BMPs") and a Stormwater Pollution Prevention Plan ("SWPPP"), and apply all known and reasonable methods of prevention,

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control, and treatment ("AKART") to discharges. The specific terms and conditions of the Permits are described in detail in the Notice Letter. See Exhibit 1.

V. FACTS

20. APMT filed applications with the WDOE for coverage under the Permits. WDOE granted APMT coverage under the 2010 permit, effective January 1, 2010, under Permit Number WAR000307. WDOE granted APMT coverage under the 2015 Permit under the same permit number.

21. The Port filed its application with the WDOE for coverage under the Permits. WDOE granted the Port coverage under the 2015 Permit under Permit Number WAR305772 on October 2, 2017.

22. Defendants' facility discharges stormwater associated with industrial activity to the Sitcum Waterway, part of Commencement Bay and the Puget Sound.

23. Defendants' facility is engaged in industrial activity and is approximately 132 acres, which are primarily paved. Defendants' facility has miles of stormwater collection pipes and has at least three known outfalls that discharge stormwater and other pollutants to the Sitcum Waterway.

24. As the owner of the facility exercising significant control over the activities at the facility, the Port is liable under the CWA for the violations at the facility alleged in this Second Amended Complaint.

25. The Port has the power and capacity to make timely discovery of discharges at the facility, direct the activities of those who control the mechanisms causing the pollution at the facility, and prevent and abate damage associated with the discharges.

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26. On information and belief, APMT is terminating its lease with the Port and vacating the site by October 2, 2017, retaining no occupancy rights. By October 2, 2017, WDOE must determine whether permit coverage at this facility will either be terminated, transferred to the Port, or transferred to the incoming tenant, who, on information and belief, is SSA Terminals. If WDOE transfers permit coverage to the Port, the Port remains liable under Section 505 of the CWA, 33 U.S.C. § 1365, for the NPDES permit violations alleged in this Second Amended Complaint as a landlord exercising significant control over the activities at the facility. If WDOE terminates permit coverage, and the Port has not obtained appropriate permit coverage for discharges of stormwater associated with industrial activity, the Port will be additionally liable as the owner of the property for unpermitted discharges in violation of Section 505 of the CWA, 33 U.S.C. § 1365, because discharges from this facility will continue to occur despite the Port's lack of permit coverage.

27. Defendants have violated "effluent standards or limitations," as defined by 33 U.S.C. § 1365(f), including conditions of the NPDES permit and the prohibition on unpermitted discharges found in 33 U.S.C. § 1311(a).. Defendants violations of the Permits and the CWA are set forth in sections I through VII of the APMT Notice Letter attached hereto as Exhibit 1, sections I through VII of the APMT Supplemental Notice Letter, attached hereto as Exhibit 2, and sections I-III of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference. In particular and among the other violations described in the notice letters, Defendants have violated the Permits by contributing to violations of water and sediment quality standards, failing to implement AKART, failing to monitor discharges, failing to implement BMPs to control stormwater quality, failing to timely complete adaptive management

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responses required by the Permits, failing to timely submit complete and accurate reports, and permitting illicit discharges to occur.

28. Defendants have discharged stormwater containing levels of pollutants that exceed the benchmark values established by the Permits from three outfalls designated A13, B, and C, including on the days on which Defendants collected samples with the results identified in Table 1 below:

Table 1 – Benchmark Exceedances

Quarter in which sample collected (monitoring point)[1]	Turbidity (Benchmark 25 NTU)	TSS (Benchmark 30 mg/L)	Copper Concentration (Benchmark 14 ug/L)	Zinc (Benchmark 117 ug/L)
1st Quarter 2013 (B)			**31.4**	
2nd Quarter 2013 (A13)			**31.4**	
2nd Quarter 2013 (B)			**27**	
2nd Quarter 2013 (C)			**34.4**	
3rd Quarter 2013 (A13)			**23.5**	
3rd Quarter 2013 (B)			**19.2**	**145**
3rd Quarter 2013 (C)			**69.5**	
4th Quarter 2013 (A13)			**24.5**	

[1] Key- (A13), (B), and (C) are designations for Defendants' outfalls A13, B, and C

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4th Quarter 2013 (B)			**30**	
4th Quarter 2013 (C)			**19.5**	
1st Quarter 2014 (A13)			**25.6**	**191**
1st Quarter 2014 (B)			**67.8**	**720**
1st Quarter 2014 (C)			**66.3**	
2nd Quarter 2014 (B)			**14.1**	
2nd Quarter 2014 (C)			**70**	
3rd Quarter 2014 (A13)			**23.5**	
3rd Quarter 2014 (B)			**19.2**	**145**
3rd Quarter 2014 (C)			**69.5**	
4th Quarter 2014 (C)			**55.1**	
2nd Quarter 2015 (A13)		**41.7**	**37**	**173**
2nd Quarter 2015 (B)			**52**	**400**
2nd Quarter 2015 (C)			**170**	
3rd Quarter 2015 (A)			**47.3**	**205**
3rd Quarter 2015 (B)		**41.9**	**64.7**	**620**
3rd Quarter 2015		**53.3**	**62**	

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(C)				
4th Quarter 2015 (A13)			**38.7**	**262**
4th Quarter 2015 (B)		**34.4**	**21.8**	**175**
4th Quarter 2015 (C)		**62.4**	**33.3**	
1st Quarter 2016 (A13)			**29.6**	
1st Quarter 2016 (C)			**17.6**	
2nd Quarter 2016 (A13)			**50.6**	**253**
2nd Quarter 2016 (B)			**20.7**	
2nd Quarter 2016 (C)			**22.4**	
3rd Quarter 2016 (A)			**22.5**	**138**
3rd Quarter 2016 (B)	**45**		**35.3**	**235**
3rd Quarter 2016 (C)	**34**		**43.2**	**235**

The Permits require Defendants' monitoring to be representative of discharges from the facility. The stormwater monitoring data provided in Table 1 shows benchmark exceedances included in the stormwater monitoring results that APMT has submitted to the WDOE.

29. Inner Commencement Bay, including the Sitcum Waterway, is listed on WDOE's 303(d) list of impaired waterbodies (i.e., waterbodies acknowledged to be in violation of specific

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applicable water quality criteria) for multiple pollutant parameters, including copper and zinc in sediments.

30. Discharges from Defendants' facility contribute to the polluted conditions of the waters of the State, including to the water quality impairment of the Sitcum Waterway for copper and zinc noted in the previous paragraph. Discharges from Defendants' facility contribute to the ecological impacts that result from the pollution of these waters and to Soundkeeper and its members' injuries resulting therefrom. These requirements and Defendants' violations thereof are described in detail in section I of the Notice Letter, attached hereto as Exhibit 1, and are incorporated herein by this reference

31. Defendants' exceedances of the benchmark values indicate that Defendants are failing to apply AKART to its discharges and/or is failing to implement an adequate SWPPP and BMPs. Upon information and belief, Defendants violated the Permits by not developing, modifying, and/or implementing BMPs and a SWPPP in accordance with the requirements of the Permits, and/or by not applying AKART to discharges from the facility. These requirements and Defendants' violations thereof are described in detail in sections I and II of the APMT Notice Letter, attached hereto as Exhibit 1, and sections II and III of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

32. Defendants have violated the monitoring requirements of the Permits. The monitoring requirements and Defendants' violations thereof are described in section III of the APMT Notice Letter, attached hereto as Exhibit 1, section III of the APMT Supplemental Notice Letter, attached hereto as Exhibit 2, and section III.C of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

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33. Defendants have not conducted and/or completed the corrective action responses as required by the Permits. These requirements of the Permits and Defendants' violations thereof are described in section IV of the APMT Notice Letter, attached hereto as Exhibit 1, and section I of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

34. Condition S8.B of the Permits require a permittee to undertake a Level 1 corrective action whenever it exceeds a benchmark value identified in Condition S5. A Level 1 corrective action comprises review of the SWPPP to ensure permit compliance, revisions to the SWPPP to include additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges, signature and certification of the revised SWPPP, summary of the Level 1 corrective action in the annual report, and full implementation of the revised SWPPP as soon as possible, but no later than the DMR due date for the quarter the benchmark was exceeded. Condition S8.A of the 2015 Permit requires that the permittee implement any Level 1 corrective action required by the 2010 Permit.

35. Defendants triggered Level 1 corrective action requirements for each benchmark exceedance identified in Table 1 above. Defendants have violated the requirements of the Permits described above by failing to conduct a Level 1 corrective action in accordance with Permit conditions, including the required review, revision, and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report, each time since November 3, 2011, that its quarterly stormwater sampling results were greater than a benchmark, including the benchmark excursions listed in Table 1 above. These corrective action requirements and Defendants' violations thereof are described in section IV.A

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of the APMT Notice Letter, attached hereto as Exhibit 1, and section I of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

36. Condition S8.C of the Permits require a permittee to undertake a Level 2 corrective action whenever it exceeds a benchmark value identified in Condition S5 during any two quarters during a calendar year. A Level 2 corrective action comprises review of the SWPPP to ensure permit compliance, revisions to the SWPPP to include additional structural source control BMPs with the goal of achieving the applicable benchmark values in future discharges, signature and certification of the revised SWPPP, summary of the Level 2 corrective action in the annual report, and full implementation of the revised SWPPP as soon as possible, but no later than August 31st of the year following the triggering of the Level 2 corrective action. Condition S8.A of the 2015 Permit requires that the permittee implement any Level 2 corrective action required by the 2010 Permit.

37. Defendants triggered Level 2 corrective action requirements for each benchmark exceedance identified in Table 1 above that occurred in any two quarters of a calendar year. Defendants have violated the requirements of the Permits described above by failing to conduct a Level 2 corrective action in accordance with Permit conditions, including the required review, revision, and certification of the SWPPP, the required implementation of additional structural source control BMPs, and the required summarization in the annual report, each time since November 3, 2011, that its quarterly stormwater sampling results were greater than a benchmark, for any two quarters during a calendar year, including the benchmark excursions listed in Table 1 above. These violations include, but are not limited to, Defendants' failure to fulfill these obligations for zinc triggered by its stormwater sampling during calendar year 2014; for copper triggered by its stormwater sampling during calendar years 2013, 2014, 2015; and TSS triggered

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by its stormwater sampling during calendar year 2015. These corrective action requirements and Defendants' violations thereof are described in section IV.B of the APMT Notice Letter, attached hereto as Exhibit 1, and section I of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

38. Condition S8.D of the Permits require a permittee to undertake a Level 3 corrective action whenever it exceeds a benchmark value identified in Condition S5 during any three quarters during a calendar year. A Level 3 corrective action comprises review of the SWPPP to ensure permit compliance, revisions to the SWPPP to include additional treatment BMPs and operational and/or structural source control BMPs if necessary, with the goal of achieving the applicable benchmark values in future discharges, signature and certification of the revised SWPPP, summary of the Level 3 corrective action in the annual report, and full implementation of the revised SWPPP as soon as possible, but no later than September 30th of the year following the triggering of the Level 3 corrective action. Condition S8.D also requires that before implementation of any BMPs that require site-specific design or sizing of structures, equipment, or processes, that the permittee submit an engineering report, plans, and specifications, and an operations and maintenance manual to WDOE for review, which must be submitted no later than May 15th prior to the Level 3 corrective action deadline. Condition S8.A of the 2015 Permit requires that the permittee implement any Level 3 corrective action required by the 2010 Permit.

39. Defendants triggered Level 3 corrective action requirements for each benchmark exceedance identified in Table 1 above that occurred in any three quarters of a calendar year. Defendants have violated the requirements of the Permits described above by failing to conduct a Level 3 corrective action in accordance with Permit conditions, including the required review,

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revision, and certification of the SWPPP, the required implementation of additional BMPs, the required submission of an engineering report and operations and maintenance manual, and the required summarization in the annual report, each time since November 3, 2011, that its quarterly stormwater sampling results were greater than a benchmark for any three quarters during a calendar year, including the benchmark excursions listed in Table 1 above. These violations include, but are not limited to, Defendants' failure to fulfill these obligations for copper triggered by its stormwater sampling during calendar years 2013, 2014, and 2015; zinc triggered by its stormwater sampling during calendar year 2015; and TSS triggered by its stormwater sampling during calendar year 2015. These corrective action requirements and Defendants' violations thereof are described in section IV.C of the Notice Letter, attached hereto as Exhibit 1, and section I of the Port Notice Letter, attached hereto as Exhibit 3, and are incorporated herein by this reference.

40. On October 11, 2016, WDOE issued Administrative Order #13823, which granted APMT's request for a modification of coverage under the General Permit, thereby extending the deadlines for and conditionally waiving the Level 3 correction action that APMT triggered in 2015. On November 16, 2016, Soundkeeper appealed Administrative Order #13823 to the Pollution Control Hearings Board ("PCHB"). On June 20, 2017, the PCHB granted summary judgment to Plaintiff and invalidated Administrative Order #13823, thereby invalidating APMT's extension of time for implementing a Level 3 corrective action.

41. Condition S9.B of the Permits requires APMT to submit an accurate and complete annual report to WDOE no later than May 15th of each year that includes specific information. APMT has violated these requirements. APMT violated this condition by failing to include all of the required information in the annual reports it submitted for years 2014 and 2015. These

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annual report requirements and APMT's violations thereof are described in section V of the Notice Letter, attached hereto as Exhibit 1, and are incorporated herein by this reference.

42. Upon information and belief, APMT has failed to comply with recording and record keeping requirements of the Permits. These requirements and APMT's violations thereof are described in section VI of the Notice Letter, attached hereto as Exhibit 1, and are incorporated herein by this reference.

43. Condition S5.E of the Permits prohibits illicit discharges by APMT. Illicit discharges by APMT are also a violation of section 301 of the CWA, 33 U.S.C. § 1311. APMT has violated this condition and the CWA each and every time an illicit discharge has occurred during the last five years. These requirements and APMT's violations thereof are described in section VII of the Notice Letter, attached hereto as Exhibit 1, and are incorporated herein by this reference.43. A significant penalty should be imposed against Defendants under the penalty factors set forth in 33 U.S.C. § 1319(d).

44. Defendants' violations were avoidable had Defendants been diligent in overseeing facility operations and maintenance.

45. Defendants benefited economically as a consequence of their violations and failure to implement improvements at the facility.

VI. CAUSE OF ACTION

A. First Cause of Action

46. The preceding paragraphs and the allegations in sections I through VII of the APMT Notice Letter, attached hereto as Exhibit 1, sections I through VII of the APMT Supplemental Notice Letter, attached hereto as Exhibit 2, are incorporated herein.

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47. APMT's violations of its NPDES permits described herein, in the APMT Notice Letter, and in the APMT Supplemental Notice Letter, constitute violations of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and violations of "effluent standard(s) or limitation(s)" as defined by Section 505 of the CWA, 33 U.S.C. § 1365.

48. Upon information and belief, the violations committed by APMT are ongoing or are reasonably likely to continue to occur. Any and all additional violations of the Permits and the CWA which occur after those described in Soundkeeper's APMT Notice Letter and APMT Supplemental Notice Letter but before a final decision in this action should be considered continuing violations subject to this Second Amended Complaint.

49. Without the imposition of appropriate civil penalties and the issuance of an injunction, APMT is likely to continue to violate the Permits and the CWA to the further injury of Soundkeeper, its members, and others.

B. Second Cause of Action

50. The preceding paragraphs and the allegations in sections I through III of the Port Notice Letter, attached hereto as Exhibit 3, are incorporated herein.

51. The Port's violations of NPDES permits authorizing discharges of stormwater associated with industrial activity from the facility, described herein and in the Port Notice Letter, and any such discharges occurring during any days on which they are not authorized by coverage under an NPDES permit authorizing discharges of stormwater associated with industrial activities, constitute violations of "effluent standard(s) or limitation(s)" as defined by Section 505 of the CWA, 33 U.S.C. § 1365, to include unpermitted discharges under Sections 301 of the CWA, 33 U.S.C. § 1311, and violations of a permit or condition thereof under Section 402 of the CWA, 33 U.S.C. § 1342.

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52. Upon information and belief, the violations committed by the Port are ongoing or are reasonably likely to continue to occur. Any and all additional violations of the Permits and the CWA which occur after those described in Soundkeeper's Port Notice Letter but before a final decision in this action should be considered continuing violations subject to this Second Amended Complaint.

53. Without the imposition of appropriate civil penalties and the issuance of an injunction, the Port is likely to continue to violate the Permits and the CWA to the further injury of Soundkeeper, its members, and others.

54. A copy of this Second Amended Complaint will be served upon the Attorney General of the United States and the Administrator of the USEPA as required by 33 U.S.C. § 1365(c)(3).

VII. RELIEF REQUESTED

Wherefore, Soundkeeper respectfully requests that this Court grant the following relief:

A. Issue a declaratory judgment that Defendants have violated and continue to be in violation of the Permits and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342;

B. Enjoin Defendants from operating the facility in a manner that results in further violations of the Permits or the CWA;

C. Order Defendants to immediately implement a SWPPP that is in compliance with the Permits;

D. Order Defendants to allow Soundkeeper to participate in the development and implementation of Defendants' SWPPP;

E. Order Defendants to provide Soundkeeper, for a period beginning on the date of the Court's Order and running for two years after Defendants achieve compliance with all of the

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conditions of the Permits, with copies of all reports and other documents which Defendants submits to the USEPA or to the WDOE regarding Defendants' coverage under the Permit at the time those documents are submitted to these agencies;

F. Order Defendants to take specific actions to remediate the environmental harm caused by its violations;

G. Grant such other preliminary and/or permanent injunctive relief as Soundkeeper may from time to time request during the pendency of this case;

H. Order Defendants to pay civil penalties of $37,500.00 per day of violation for each violation committed by APMT through November 2, 2015 and to pay $52,414 per day of violation for each violation committed by APMT after November 2, 2015 pursuant to Sections 309(d) and 505(a) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19 and 19.4;

I. Award Soundkeeper its litigation expenses, including reasonable attorneys' and expert witness fees, as authorized by Section 505(d) of the CWA, 33 U.S.C. § 1365(d); and

J. Award such other relief as this Court deems appropriate.

RESPECTFULLY SUBMITTED this __st day of _____, 2017.

SMITH & LOWNEY, PLLC

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Exhibit 1

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November 2, 2016

Via Certified Mail - Return Receipt Requested
Managing Agent
APM Terminals Pacific Ltd.
1675 Lincoln Ave.
Tacoma, WA 98421

Via Certified Mail - Return Receipt Requested
Managing Agent
APM Terminals Tacoma LLC
1675 Lincoln Ave.
Tacoma, WA 98421

Re: **NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT AND REQUEST FOR COPY OF STORMWATER POLLUTION PREVENTION PLAN**

Dear Managing Agent:

We represent Puget Soundkeeper Alliance (Soundkeeper), 130 Nickerson St., #107, Seattle, WA 98109, (206) 297-7002. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days notice of Soundkeeper's intent to file a citizen suit against APM Terminals Pacific Ltd. (APM) under section 505 of the Clean Water Act ("CWA"), 33 USC § 1365, for the violations described below. This letter is also a request for a copy of the complete and current stormwater pollution prevention plan ("SWPPP") required by APM's National Pollution Discharge Elimination System ("NPDES") permit.

APM was granted coverage on January 1, 2010 under the Washington Industrial Stormwater General Permit ("IGSP") issued by the Washington State Department of Ecology ("Ecology") on October 21, 2009, effective January 1, 2010, modified May 16, 2012, effective July 1, 2012, and set to expire on January 1, 2015, under NPDES Permit No. WAR-000307 (the "2010 Permit"). Ecology granted subsequent coverage under the current iteration of the ISGP, issued by Ecology on December 3, 2014, effective January 2, 2015, and set to expire on December 31, 2019 (the "2015 Permit") and maintains the same permit number, WAR-000307.

APM has violated and continues to violate the CWA (see Sections 301 and 402 of the CWA, 33 USC §§ 1311 and 1342) and the terms and conditions of the 2010 Permit and 2015 Permit (collectively, "Permits") with respect to operations of, and discharges of stormwater

and pollutants from its facility located at or about 1675 Lincoln Ave, Tacoma, WA 98241 (the "facility") as described herein, to the Sitcum Waterway, part of Commencement Bay and the Puget Sound. The facility subject to this notice includes any contiguous or adjacent properties owned or operated by APM.

I. COMPLIANCE WITH STANDARDS.

A. Violations of Water Quality Standards.

Condition S10.A of the Permits prohibits discharges that cause or contribute to violations of water quality standards. Water quality standards are the foundation of the CWA and Washington's efforts to protect clean water. In particular, water quality standards represent the U.S. Environmental Protection Agency ("EPA") and Ecology's determination, based on scientific studies, of the thresholds at which pollution starts to cause significant adverse effects on fish or other beneficial uses. For each water body in Washington, Ecology designates the "beneficial uses" that must be protected through the adoption of water quality standards.

A discharger must comply with both narrative and numeric criteria for water quality standards. WAC 173-201A-010; WAC 173-201A-510 ("No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria, except as provided for in this chapter."). Narrative water quality standards provide legal mandates that supplement the numeric criteria. Furthermore, the narrative water quality standard applies with equal force even if Ecology has established a numeric water quality standard. Specifically, Condition S10.A of the Permits requires that APM's discharges not cause or contribute to a violation of Washington State water quality standards.

APM discharges to the Sitcum Waterway via a stormwater conveyance system, comprising collection and conveyance facilities, such as catch basins and pipes which then discharges to Commencement Bay in the Puget Sound. APM discharges stormwater that contains elevated levels of copper, zinc, and total suspended solids ("TSS") as indicated in the table of benchmark exceedances below. These discharges cause and/or contribute to violations of water quality standards for copper and zinc in the Sitcum Waterway and Commencement Bay and have occurred each and every day during the last five years on which there was 0.1 inches or more of precipitation, and continue to occur. These water quality standards include those set forth in WAC 173-201A-210(e), 240(3) and 260(2)(a). Precipitation data from that time period is appended to this notice of intent to sue and identifies these days.

Table 1 – Benchmark Exceedances

Quarter in which sample collected (monitoring point)	TSS (Benchmark 30 mg/L)	Copper Concentration (Benchmark 14 ug/L)	Zinc (Benchmark 117 ug/L)
1st Quarter 2013		31.4	

(B)*			
2nd Quarter 2013 (A13)*		31.4	
2nd Quarter 2013 (B)		27	
2nd Quarter 2013 (C)*		34.4	
3rd Quarter 2013 (A13)		23.5	
3rd Quarter 2013 (B)		19.2	145
3rd Quarter 2013 (C)		69.5	
4th Quarter 2013 (A13)		24.5	
4th Quarter 2013 (B)		30	
4th Quarter 2013 (C)		19.5	
1st Quarter 2014 (A13)		25.6	191
1st Quarter 2014 (B)		67.8	720
1st Quarter 2014 (C)		66.3	
2nd Quarter 2014 (B)		14.1	
2nd Quarter 2014 (C)		70	
3rd Quarter 2014 (A13)		23.5	
3rd Quarter 2014 (B)		19.2	145
3rd Quarter 2014 (C)		69.5	

4th Quarter 2014 (C)		55.1	
2nd Quarter 2015 (A13)	41.7	37	173
2nd Quarter 2015 (B)		52	400
2nd Quarter 2015 (C)		170	
3rd Quarter 2015 (A)		47.3	205
3rd Quarter 2015 (B)	41.9	64.7	620
3rd Quarter 2015 (C)	53.3	62	
4th Quarter 2015 (A13)		38.7	262
4th Quarter 2015 (B)	34.4	21.8	175
4th Quarter 2015 (C)	62.4	33.3	
1st Quarter 2016 (A13)		29.6	
1st Quarter 2016 (C)		17.6	
2nd Quarter 2016 (A13)		50.6	253
2nd Quarter 2016 (B)		20.7	
2nd Quarter 2016 (C)		22.4	

*(A13), (B), and (C) are designations for Outfalls A13, B, and C.

Additionally, these discharges are causing or contributing to violations of sediment quality standards as set forth in WAC 173-204-320(2)(f) for the following pollutants: 1,2,4-Trichlorobenzene, 1,4-Dichlorobenzene, 2,4-Dimethylphenol, Dibenzo[a,h]anthracene, 2-Methylnaphthalene, 2-Methylphenol, Di-N-Octyl Phthalate, 4-Methylphenol, Pentachlorophenol, Hexachlorobenzene, Hexachlorobutadiene, Acenaphthene, Anthracene,

Arsenic, Bis(2-Ethylhexyl) Phthalate, Benz[a]anthracene, Benzo[a]pyrene, Benzoic Acid, Benzyl Alcohol, Benzo[g,h,i]perylene, Butyl benzyl phthalate, Cadmium, Chromium, Chrysene, Copper, Diethyl phthalate, Dibenzofuran, Dibutyl phthalate, Dimethyl phthalate, Fluoranthene, Fluorene, High Molecular Weight Polycyclic Aromatic Hydrocarbons (HPAH), Indeno(1,2,3-c,d)pyrene, Lead, Low Molecular Weight Polycyclic Aromatic Hydrocarbons (LPAH), Mercury, Naphthalene, N-Nitrosodiphenylamine, PCB, Phenanthrene, Phenol, Pyrene, Silver, Benzofluoranthenes, Total (b+k+j), Zinc, and Sediment Bioassay.

B. Compliance with Standards.

Condition S10.C of the Permits requires APM to apply all known and reasonable methods of prevention, control and treatment ("AKART") to all discharges, including preparation and implementation of an adequate SWPPP and best management practices ("BMPs"). APM has violated and continues to violate these conditions by failing to apply AKART to its discharges or to implement an adequate SWPPP and BMPs as evidenced by the elevated levels of pollutants in its discharge indicated in the table above and as described below in this notice of intent to sue.

Condition S1.A of the Permits requires that all discharges and activities authorized be consistent with the terms and conditions of the Permits. APM has violated these conditions by discharging and acting inconsistently with the conditions of the Permits as described in this Notice of Intent to Sue.

II. STORMWATER POLLUTION PREVENTION PLAN VIOLATIONS.

Condition S3.A.1 of the Permits requires APM to develop and implement a SWPPP as specified. Condition S3.A.2 of the Permits require the SWPPP to specify BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, APM has violated these requirements of the Permits each and every day during the last five years and continues to violate them as it has failed to prepare and/or implement a SWPPP that includes AKART BMPs and BMPs necessary to comply with state water quality standards.

Condition S3.A of the Permits requires APM to have and implement a SWPPP that is consistent with permit requirements, fully implemented as directed by permit conditions, and updated as necessary to maintain compliance with permit conditions. On information and belief, APM has violated these requirements of the Permits each and every day during the last five years and continues to violate them because its SWPPP is not consistent with permit requirements, has not been fully implemented and has not been updated as necessary.

The SWPPP fails to satisfy the requirements of Condition S3 of the Permits because it does not adequately describe BMPs. Condition S3.B.4 of the Permits requires that the SWPPP include a description of the BMPs that are necessary for the facility to eliminate or reduce the potential to contaminate stormwater. Condition S3.A.3 of the Permits requires that the SWPPP include BMPs consistent with approved stormwater technical manuals or document how stormwater BMPs included in the SWPPP are demonstratively equivalent to

the practices contained in the approved stormwater technical manuals, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs. APM's SWPPP does not comply with these requirements because it does not adequately describe BMPs and does not include BMPs consistent with approved stormwater technical manuals nor does it include BMPs that are demonstratively equivalent to such BMPs with documentation of BMP adequacy.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.2 of the Permits because it fails to include a facility assessment as mandated. The SWPPP fails to include an adequate facility assessment because it does not describe the industrial activities conducted at the site, the general layout of the facility including buildings and storage of raw materials, the flow of goods and materials through the facility, regular business hours and seasonal variations in business hours or in industrial activities as required.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.1 of the Permits because it does not include a site map that identifies significant features, the stormwater drainage and discharge structures, the stormwater drainage areas for each stormwater discharge point off-site, a unique identifying number for each discharge point, each sampling location with a unique identifying number, paved areas and buildings, areas of pollutant contact associated with specific industrial activities, conditionally approved non-stormwater discharges, surface water locations, areas of existing and potential soil erosion, vehicle maintenance areas, and lands and waters adjacent to the site that may be helpful in identifying discharge points or drainage routes.

APM's SWPPP fails to comply with Condition S3.B.2.b of the Permits because it does not include an inventory of industrial activities that identifies all areas associated with industrial activities that have been or may potentially be sources of pollutants as required. The SWPPP does not identify all areas associated with loading and unloading of dry bulk materials or liquids, outdoor storage of materials or products, outdoor manufacturing and processing, onsite dust or particulate generating processes, on-site waste treatment, storage, or disposal, vehicle and equipment fueling, maintenance, and/or cleaning, roofs or other surfaces exposed to air emissions from a manufacturing building or a process area, and roofs or other surfaces composed of materials that may be mobilized by stormwater as required by these conditions.

APM's SWPPP does not comply with Condition S3.B.2.c of the Permits because it does not include an adequate inventory of materials. The SWPPP does not include an inventory of materials that lists the types of materials handled at the site that potentially may be exposed to precipitation or runoff and that could result in stormwater pollution, a short narrative for material describing the potential for the pollutants to be present in stormwater discharge that is updated when data becomes available to verify the presence or absence of the pollutants, a narrative description of any potential sources of pollutants from past activities, materials and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to stormwater as required. The SWPPP does not include the method and location of on-site storage or disposal of such materials and a list of significant spills and significant leaks of toxic or hazardous pollutants as these permit conditions require.

APM's SWPPP does not comply with Condition S3.B.3 of the Permits because it does not identify specific individuals by name or title whose responsibilities include SWPPP development, implementation, maintenance, and modification.

Condition S3.B.4 of the 2010 Permit requires that permittees include in their SWPPPs and implement certain mandatory BMPs no later than July 1, 2010 unless site conditions render the BMP unnecessary, infeasible, or an alternative and equally effective BMP is provided. APM is in violation of this requirement because it has failed to include in its SWPPP and implement the mandatory BMPs of the 2010 Permit.

Condition S3.B.4 of the 2015 Permit requires that permittees include in their SWPPPs and implement certain mandatory BMPs and that the permittee explain in detail how and where the selected BMPs will be implemented. APM is in violation of this requirement because it has failed to include in its SWPPP and implement the mandatory BMPs of the 2015 Permit and has failed to explain in detail how and where these BMPs will be implemented.

APM's SWPPP does not comply with Condition S3.B.4.b.i of the Permits because it does not include required operational source control BMPs in the following categories: good housekeeping (including definition of ongoing maintenance and cleanup of areas that may contribute pollutants to stormwater discharges, and a schedule/frequency for each housekeeping task); preventive maintenance (including BMPs to inspect and maintain stormwater drainage, source controls, treatment systems, and plant equipment and systems, and the schedule/frequency for each task); spill prevention and emergency cleanup plan (including BMPs to prevent spills that can contaminate stormwater, for material handling procedures, storage requirements, cleanup equipment and procedures, and spill logs); employee training (including an overview of what is in the SWPPP, how employees make a difference in complying with the SWPPP, spill response procedures, good housekeeping, maintenance requirements, and material management practices, how training will be conducted, the frequency/schedule of training, and a log of the dates on which specific employees received training); inspections and recordkeeping (including documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, including identification of personnel who conduct inspections, provision of a tracking or follow-up procedure to ensure that a report is prepared and appropriate action taken in response to visual monitoring, definition of how APM will comply with signature and record retention requirements, and certification of compliance with the SWPPP and Permits).

APM's SWPPP does not comply with Condition S3.B.4.b.i.7 of the Permits because it does not include measures to identify and eliminate the discharge of process wastewater, domestic wastewater, noncontact cooling water, and other illicit discharges to stormwater sewers, or to surface waters and ground waters of the state.

APM's SWPPP does not comply with Condition S3.B.4.b.ii of the Permits because it does not include required structural source control BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.

APM's SWPPP does not comply with Condition S3.B.4.b.iii of the Permits because it does not include treatment BMPs as required.

APM's SWPPP fails to comply with Condition S3.B.4.b.v of the Permits because it does not include BMPs to prevent the erosion of soils or other earthen materials and prevent off-site sedimentation and violations of water quality standards.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.5 Permits because it fails to include a stormwater sampling plan as required. The SWPPP does not include a sampling plan that identifies points of discharge to surface waters, storm sewers, or discrete ground water infiltration locations, documents why each discharge point is not sampled, identifies each sampling point by its unique identifying number, identifies staff responsible for conducting stormwater sampling, specifies procedures for sampling collection and handling, specifies procedures for sending samples to the a laboratory, identifies parameters for analysis, holding times and preservatives, laboratory quantization levels, and analytical methods, and that specifies the procedure for submitting the results to Ecology.

III. MONITORING AND REPORTING VIOLATIONS.

A. Failure to Collect Quarterly Samples.

Condition S4.B of the Permits requires APM to collect a sample of its stormwater discharge once during every calendar quarter. Conditions S3.B.5.b and S4.B.2.c of the Permits require APM to collect stormwater samples at each distinct point of discharge offsite except for substantially identical outfalls when documented in the SWPPP, in which case only one of the substantially identical outfalls must be sampled. These conditions set forth sample collection criteria, but require the collection of a sample even if the criteria cannot be met.

APM violated these requirements by failing to collect stormwater samples at any of its discharge points during the third quarter of 2012 and failing to collect stormwater samples from Outfall A13 during the first quarter of 2015.

B. Failure to Analyze Quarterly Samples.

Condition S5.A.1, Table 2, Condition S6.C.2.a, and Table 7 of the Permits require APM to analyze stormwater samples collected quarterly for turbidity, pH, total copper, total zinc, and TSS. Condition S4.B.4.h.6 allows APM to suspend sampling for one or more parameters for a period of three years based on consistent attainment of benchmark values when eight consecutive quarterly samples demonstrate a reported value equal to or less than the benchmark value. Per Permit Condition S.4.B.4.h.6.b.i, for the purposes of tallying "consecutive quarterly samples," any quarter in which APM did not collect a sample but should have resets the tally of quarterly samples to zero.

APM is violating these conditions by failing to analyze stormwater samples from Outfall A13 for turbidity each and every quarter since the third quarter of 2013.

C. Failure to Timely Submit Discharge Monitoring Reports.

Condition S9.A of the Permits requires APM to use DMR forms provided or approved by Ecology to summarize, report and submit monitoring data to Ecology. For each monitoring period (calendar quarter) a DMR must be completed and submitted to Ecology not later than 45 days after the end of the monitoring period. APM has violated these conditions by failing to submit a DMR within the time prescribed for the fourth quarter of 2011, first quarter of 2012, second quarter of 2012, fourth quarter of 2012, first quarter of 2013, third quarter of 2013, fourth quarter of 2013, first quarter of 2014, second quarter of 2014, third quarter of 2014, and the fourth quarter of 2014.

D. Failure to Comply with Visual Monitoring Requirements.

Condition S7.A of the Permits requires that monthly visual inspection be conducted at the facility by qualified personnel. Each inspection is to include observations made at stormwater sampling locations and areas where stormwater associated with industrial activity is discharged, observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in the stormwater discharges, observations for the presence of illicit discharges, a verification that the descriptions of potential pollutant sources required by the permit are accurate, a verification that the site map in the SWPPP reflects current conditions, and an assessment of all BMPs that have been implemented (noting the effectiveness of the BMPs inspected, the locations of BMPs that need maintenance, the reason maintenance is needed and a schedule for maintenance, and locations where additional or different BMPs are needed).

Condition S7.C of the Permits requires that APM record the results of each inspection in an inspection report or checklist that is maintained on-site and that documents the observations, verifications, and assessments required. The report/checklist must include the time and date of the inspection, the locations inspected, a statement that, in the judgment of the person conducting the inspection and the responsible corporate officer, the facility is either in compliance or out of compliance with the SWPPP and the Permits, a summary report and schedule of implementation of the remedial actions that APM plans to take if the site inspection indicates that the facility is out of compliance, the name, title, signature and certification of the person conducting the facility inspection, and a certification and signature of the responsible corporate officer or a duly authorized representative.

APM is in violation of these requirements of Condition S7 of the Permits because, during the last five years, it has failed to conduct each of the requisite visual monitoring and inspections, failed to prepare and maintain the requisite inspection reports or checklists, and failed to make the requisite certifications and summaries.

E. Failure to Comply with Storm Drain Solids Sampling and Reporting Requirements

Condition S6.C.2.d of the 2015 Permit requires that permittees who discharge to Puget Sound Sediment Cleanup Sites remove accumulated solids from storm drain lines owned or

controlled by the permittee at least once prior to October 1, 2016. Condition S6.C.2.e of the 2015 Permit requires permittees sample and analyze storm drain solids in accordance with Table 8 of the 2015 Permit at least once prior to October 1, 2016. Condition S6.C.2.f of the 2015 Permit requires that all storm drain solids sampling data shall be reported to Ecology on a Solids Monitoring Report (SMR) no later than the DMR due date for the reporting period in which the solids were sampled, in accordance with Condition S9.A of the 2015 Permit.

APM is in violation of these Conditions by failing to sample and analyze its storm drain solids at least once prior to October 1, 2016. APM is also in violation of these Conditions for failing to timely submit an SMR to Ecology after completing line jetting activities sometime in the first or second quarter of 2016.

IV. CORRECTIVE ACTION VIOLATIONS.

A. Violations of the Level One Requirements of the Permits.

Condition S8.B of the Permits requires APM take specified actions, called a "Level One Corrective Action," each time quarterly stormwater sample results exceed a benchmark value or are outside the benchmark range.

As described by Condition S8.B of the Permits, a Level One Corrective Action requires APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits and contains the correct BMPs from the applicable Stormwater Management Manual; (2) make appropriate revisions to the SWPPP to include additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the Level One Corrective Action in the Annual Report required under Condition S9.B of the Permits. Condition S8.B.3 of the Permits requires APM implement the revised SWPPP as soon as possible, and no later than the DMR due date for the quarter the benchmark was exceeded.

Condition S5.A and Table 2 of the Permits establish the following benchmarks: turbidity 25 NTU; pH 5 – 9 SU; total copper 14 µg/L; and total zinc 117 µg/L. Condition S6.C.2.a and Table 7 of the Permits establish the following additional benchmark that is applicable to APM: TSS 30 mg/L.

APM has violated the requirements of the Permits described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark ranges, including the benchmark exceedances listed in Table 1 above.

B. Violations of the Level Two Requirements of the Permits.

Condition S8.C of the Permits requires APM take specified actions, called a "Level Two Corrective Action," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for any two quarters during a calendar year.

As described by Condition S8.C of the Permits, a Level Two Corrective Action requires that APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional structural source control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the Level Two Corrective Action (planned or taken) in the Annual Report required under Condition S9.B of the Permits. Condition S8.C.4 of the Permits requires APM implement the revised SWPPP according to Condition S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than August 31st of the following year.

The Permits establish the benchmarks applicable to APM described in section IV.A of this notice of intent to sue letter.

APM has violated the requirements of the Permits described above by failing to conduct a Level Two Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, including additional structural source control BMPs, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for any two quarters during a calendar year. As indicated in Table 1 above, these violations include, but are not limited to, APM's failure to fulfill these obligations for zinc triggered by its stormwater sampling during calendar year 2014; for copper triggered by its stormwater sampling during calendar years 2013, 2014, 2015; and TSS triggered by its stormwater sampling during calendar year 2015.

C. Violations of the Level Three Requirements of the Permits.

Condition S8.D of the Permits requires APM to take specified actions, called a "Level Three Corrective Action," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for any three quarters during a calendar year.

As described by Condition S8.D of the Permits, a Level Three Corrective Action requires that APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional treatment BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and additional operational and/or structural source control BMPs if necessary for proper function and maintenance of treatment BMPs, and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the Level Three Corrective Action (planned or taken) in the Annual Report required under

Condition S9.B of the Permits, including information on how monitoring, assessment, or evaluation information was (or will be) used to determine whether existing treatment BMPs will be modified/enhanced, or if new/additional treatment BMPs will be installed. Condition S8.D.2.b of the Permits requires that a licensed professional engineer, geologist, hydrogeologist, of certified professional in storm water quality must design and stamp the portion of the SWPPP that addresses stormwater treatment structures or processes.

Condition S8.D.3 of the Permits requires that, before installing BMPs that require the site-specific design or sizing of structures, equipment, or processes to collect, convey, treat, reclaim, or dispose of industrial stormwater, APM submit an engineering report, plans, and specifications, and an operations and maintenance manual to Ecology for review in accordance with chapter 173-204 of the Washington Administrative Code. The engineering report must be submitted no later than the May 15th prior to the Level Three Corrective Action Deadline. The plans and specifications and the operations and maintenance manual must be submitted to Ecology at least 30 days before construction/installation.

Condition S8.D.5 of the Permits requires APM fully implement the revised SWPPP according to Condition S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than September 30th of the following year.

The Permits establish the benchmarks applicable to APM described in section IV.A of this notice of intent to sue letter.

APM has violated the requirements of the Permits described above by failing to conduct a Level Three Corrective Action in accordance with permit conditions, including the required review, revision, and certification of the SWPPP, including the requirement to have a specified professional design and stamp the portion of the SWPPP pertaining to treatment, the required implementation of additional BMPs, including additional treatment BMPs, the required submission of an engineering report, plans, specifications, and an operations and maintenance plan, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for any three quarters during a calendar year. As indicated in Table 1 above, these violations include, but are not limited to, APM's failure to fulfill these obligations for copper triggered by its stormwater sampling during calendar years 2013, 2014, and 2015; zinc triggered by its stormwater sampling during calendar year 2015; and TSS triggered by its stormwater sampling during calendar year 2015.

Soundkeeper is aware that Ecology has granted APM an extension for its Level 3 Corrective Action triggered by its 2015 exceedances. Although this extension has been granted, it was granted illegally, and will be declared void. Additionally, the extension is conditional. APM will not meet the conditions of the extension, so the extension will be invalid.

V. VIOLATIONS OF THE ANNUAL REPORT REQUIREMENTS.

Condition S9.B of the Permits requires APM to submit an accurate and complete annual report to Ecology no later than May 15th of each year. The annual report must include corrective action documentation as required in Condition S8.B – D of the Permits. If a corrective action is not yet completed at the time of submission of the annual report, APM must describe the status of any outstanding corrective action. Specific information to be included in the annual report is identification of the conditions triggering the need for corrective action, description of the problem and identification of dates discovered, summary of any Level One, Two, or Three corrective actions completed during the previous calendar year, including the dates corrective actions completed, and description of the status of any Level Two or Three corrective actions triggered during the previous calendar year, including identification of the date APM expects to complete corrective actions.

APM has violated this condition. The annual report submitted by APM for 2014 (in May 2015) does not include the required information. Specifically, APM does not provide a description of the stormwater problems and the dates the problems were discovered, the description of the Level Three Corrective Actions taken are insufficient, and despite identifying uncompleted Level Two and Three Corrective Actions, no dates for completion of those Actions are specified. The annual report submitted by APM for 2015 (in May 2016) does not include the required information. Specifically, APM does not provide a description of the stormwater problems and the dates the problems were discovered.

VI. VIOLATIONS OF THE RECORDKEEPING REQUIREMENTS.

A. Failure to Record Information.

Condition S4.B.3 of the Permits requires APM to record and retain specified information for each stormwater sample taken, including the sample date and time, a notation describing if APM collected the sample within the first 30 minutes of stormwater discharge event, an explanation of why APM could not collect a sample within the first 30 minutes of a stormwater discharge event, the sample location, method of sampling and of preservation, and the individual performing the sampling. Upon information and belief, APM is in violation of these conditions as it has not recorded each of these specified items for each sample taken during the last five years.

B. Failure to Retain Records.

Condition S9.C of the Permits requires APM to retain for a minimum of five years a copy of the Permits, a copy of APM's coverage letter, records of all sampling information, inspection reports including required documentation, any other documentation of compliance with permit requirements, all equipment calibration records, all BMP maintenance records, all original recordings for continuous sampling instrumentation, copies of all laboratory results, copies of all required reports, and records of all data used to complete the application for the Permits. Upon information and belief, APM is in violation of these conditions because it has

failed to retain records of such information, reports, and other documentation during the last five years.

VII. NON-STORMWATER DISCHARGE VIOLATIONS

Condition S5.E of the Permits prohibits illicit discharges by APM. The Permits define "illicit discharge" as "any discharge that is not composed entirely of stormwater except (1) discharges authorized pursuant to a separate NPDES Permit, or (2) conditionally authorized stormwater discharges identified in Condition S5.D." Condition S7.B.3 requires APM to notify Ecology of any illicit discharge that is discovered within seven days of the discovery, and to eliminate the illicit discharge within thirty days. Illicit discharges by APM are also a violation of section 301 of the CWA, 33 U.S.C. § 1311. APM is in violation of these Conditions and section 301 of the CWA for illicit discharges of decant water into the stormwater conveyance system for every such illicit discharge that has occurred during the last five years.

VIII. REQUEST FOR SWPPP.

Pursuant to Condition S9.F of the Permits, Puget Soundkeeper hereby requests that APM provide a copy of, or access to, its SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to the undersigned at the letterhead address.

Should APM fail to provide the requested complete copy of, or access to, its SWPPP as required by Condition S9.F of the Permits, it will be in violation of that condition, which violation shall also be subject to this Notice of Intent to Sue and any ensuing lawsuit.

IX. CONCLUSION.

The above-described violations reflect those indicated by the information currently available to Puget Soundkeeper. These violations are ongoing. Puget Soundkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Pursuant to Sections 309(d) and 505(a) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19 and 19.4, each of the above-described violations subjects the violator to a penalty of up to $37,500 per day for each violation for violations committed through November 2, 2015 and up to $51,570 per day for each violation committed thereafter. In addition to civil penalties, Puget Soundkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 USC § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 USC § 1365(d), permits prevailing parties to recover costs, including attorney's fees.

Puget Soundkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against APM under Section 505(a) of the Clean Water Act for violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations addressed in this letter and settlement terms. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within 10 days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed promptly. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Very truly yours,

SMITH & LOWNEY, PLLC

By: _____
Knoll Lowney
Alyssa Englebrecht

cc: Gina McCarthy, Administrator, U.S. EPA
Dennis McLerran, Region 10 Administrator, U.S. EPA
Maia Bellon, Director, Washington Department of Ecology
CT Corporation System, Registered Agent (505 Union Avenue SE, Ste 120, Olympia, WA 98501)

Precipitation Data

2011	Precip. (in)
Nov	sum
1	0
2	0.43
3	0.01
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0
11	0.19
12	0.11
13	0.14
14	0.01
15	0
16	0.36
17	0.38
18	0
19	0.02
20	0
21	0.24
22	1.99
23	0.69
24	0.45
25	0
26	0.02
27	0.42
28	0
29	0.06
30	0

2011	Precip. (in)
Dec	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0.01
11	0.01
12	0
13	0
14	0
15	0.05
16	0
17	0
18	0.07
19	0
20	0
21	0
22	0
23	0
24	0.01
25	0.13
26	0.07
27	0.61
28	0.72
29	0.42
30	0.37
31	0

2012	Precip. (in)
Jan	sum
1	0
2	0.11
3	0.01
4	0.44
5	0.15
6	0.02
7	0
8	0
9	0.27
10	0.03
11	0
12	0
13	0
14	0.19
15	0.07
16	0.05
17	0.35
18	0.58
19	0.65
20	0.38
21	0.17
22	0.11
23	0
24	0.45
25	0.29
26	0.17
27	0
28	0
29	0.95
30	0.04
31	0.1

2012	Precip. (in)
Feb	sum
1	0.36
2	0
3	0
4	0
5	0
6	0
7	0.04
8	0.16
9	0.2
10	0.12
11	0.01
12	0.06
13	0.13
14	0.06
15	0
16	0.14
17	0.47
18	0.42
19	0
20	0.11
21	0.26
22	0.1
23	0
24	0.31
25	0.02
26	0
27	0

Precipitation Data

28	0.08
29	0.25

2012	Precip. (in)
Mar	sum
1	0
2	0.01
3	0
4	0
5	0.35
6	0.04
7	0
8	0
9	0
10	0.34
11	0.4
12	0.48
13	0.22
14	0.21
15	0.59
16	0.3
17	0.51
18	0.04
19	0.03
20	0.4
21	0.08
22	0.96
23	0
24	0
25	0
26	11.38
27	0.04
28	0.08
29	1.19
30	0.23
31	0.48

2012	Precip. (in)
Apr	sum
1	0.07
2	0
3	0.18
4	0.01
5	0.03
6	0
7	0
8	0
9	0
10	0
11	0.23
12	0.01
13	0
14	0
15	0
16	0.34
17	0.1
18	0.12
19	0.59
20	0.3
21	0
22	0
23	0
24	0.03
25	0.55
26	0.26
27	0.04
28	0
29	0.16
30	0.31

2012	Precip. (in)
May	sum
1	0.14
2	0.01
3	0.62
4	0.02
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0.25
21	0.73
22	0.23
23	0.26
24	0
25	0
26	0
27	0
28	0.02
29	0
30	0
31	0.15

2012	Precip. (in)
Jun	sum
1	0.27
2	0.04
3	0
4	0.05
5	0.27
6	0
7	0.58
8	0.2
9	0
10	0
11	0
12	0.1
13	0
14	0
15	0
16	0.02
17	0
18	0.01
19	0.02
20	0
21	0
22	0.18

Precipitation Data

23	0.45
24	0
25	0.03
26	0
27	0
28	0.01
29	0
30	0.06

2012	Precip. (in)
Jul	sum
1	0
2	0.03
3	0.13
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0.01
14	0
15	0
16	0.11
17	0
18	0
19	0
20	0.62
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012	Precip. (in)
Sep	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0.01
30	0

2012	Precip. (in)
Oct	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.05
13	0.32
14	0.29
15	0.33
16	0

Precipitation Data

17	0
18	0.33
19	0.17
20	0.18
21	0.24
22	0.33
23	0
24	0.17
25	0
26	0.13
27	0.76
28	0.23
29	0.59
30	0.92
31	0.42

2012	Precip. (in)
Nov	sum
1	0.53
2	0.23
3	0.02
4	0.11
5	0.05
6	0.02
7	0
8	0
9	0
10	0
11	0.64
12	0.07
13	0.14
14	0
15	0
16	0.18
17	0.33
18	0.36
19	1.73
20	0.11
21	0.27
22	0.02
23	0.73
24	0.01
25	0
26	0
27	0
28	0.07
29	0.1
30	1.04

2012	Precip. (in)
Dec	sum
1	0.32
2	0.51
3	0.36
4	0.54
5	0.11
6	0.25
7	0.22
8	0
9	0.09
10	0.06
11	0.17
12	0
13	0.05
14	0.22
15	0.05
16	0.91
17	0.27
18	0.21
19	0.76
20	0.35
21	0.01
22	0.08
23	0.27
24	0.02
25	0.44
26	0.25
27	0.01
28	0
29	0.09
30	0
31	0

2013	Precip. (in)
Jan	sum
1	0
2	0
3	0.1
4	0.02
5	0.05
6	0.12
7	0.12
8	0.22
9	0.81
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.12
24	0.15
25	0.1
26	0.01
27	0.09
28	0.14
29	0.13
30	0.15
31	0.05

2013	Precip. (in)
Feb	sum
1	0
2	0
3	0.02
4	0
5	0.12
6	0.05
7	0.05
8	0
9	0

Precipitation Data

10	0
11	0.02
12	0
13	0.03
14	0
15	0
16	0.03
17	0.02
18	0
19	0.01
20	0.08
21	0.09
22	0.49
23	0
24	0.01
25	0.12
26	0
27	0.1
28	0.56

2013	Precip. (in)
Mar	sum
1	0.02
2	0.09
3	0
4	0
5	0.03
6	0.43
7	0.23
8	0
9	0
10	0.05
11	0.08
12	0.09
13	0.15
14	0.05
15	0.15
16	0.13
17	0.06
18	0.01
19	0.32
20	0.51
21	0.01
22	0
23	0
24	0
25	0
26	0
27	0
28	0.15
29	0
30	0
31	0

2013	Precip. (in)
Apr	sum
1	0
2	0
3	0
4	0.18
5	0.9
6	0.58
7	0.91
8	0
9	0
10	0.22
11	0
12	0.24
13	0.11
14	0.35
15	0
16	0
17	0
18	0.05
19	0.47
20	0
21	0.03
22	0
23	0
24	0
25	0
26	0
27	0.03
28	0.1
29	0.02
30	0

2013	Precip. (in)
May	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.1
13	0.29
14	0
15	0.06
16	0
17	0.25
18	0.09
19	0.03
20	0
21	0.51
22	0.53
23	0.5
24	0.22
25	0.01
26	0.4
27	0.4
28	0.1
29	0.28
30	0.24
31	0

2013	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0

Precipitation Data

6	0
7	0
8	0
9	0
10	0
11	0.05
12	0.2
13	0.12
14	0
15	0
16	0
17	0
18	0.01
19	0
20	0.12
21	0
22	0
23	0.65
24	0.26
25	0.26
26	0.02
27	0.26
28	0.01
29	0
30	0

2013	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2013	Precip. (in)
Aug	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0.06
11	0
12	0
13	0
14	0.09
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.04
27	0
28	0.24
29	0.4
30	0
31	0

2013	Precip. (in)
Sep	sum
1	0
2	0
3	0.42
4	0.01
5	0.59
6	1.44
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.06
17	0
18	0
19	0
20	0.15
21	0
22	0.57
23	0.14
24	0.34
25	0.24
26	0
27	0.05
28	1.65
29	0.59
30	1.53

2013	Precip. (in)

Precipitation Data

Oct	sum
1	0.68
2	0.17
3	0.03
4	0
5	0
6	0.03
7	0.15
8	0.07
9	0
10	0.04
11	0
12	0.16
13	0
14	0
15	0
16	0
17	0
18	0
19	0.01
20	0.01
21	0
22	0
23	0.01
24	0.01
25	0
26	0.01
27	0.03
28	0
29	0
30	0
31	0.05

2013	Precip. (in)
Nov	sum
1	0.01
2	0.52
3	0
4	0.04
5	0.08
6	0.12
7	0.72
8	0
9	0.05
10	0.01
11	0
12	0.16
13	0.04
14	0.02
15	0.24
16	0.01
17	0.6
18	0.46
19	0.09
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.07

2013	Precip. (in)
Dec	sum
1	0.47
2	0
3	0.01
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.29
13	0.02
14	0
15	0.04
16	0
17	0
18	0
19	0
20	0.37
21	0.14
22	0.02
23	0.08
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.04

2014	Precip. (in)
Jan	sum
1	0.01
2	0.13
3	0
4	0
5	0
6	0.14
7	0.51
8	0.33
9	0.3
10	0.24
11	0.98
12	0.12
13	0.02
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0

Precipitation Data

27	0
28	0.37
29	0.78
30	0.08
31	0.05

2014	Precip. (in)
Feb	sum
1	0.03
2	0
3	0
4	0
5	0
6	0
7	0
8	0.05
9	0.18
10	0.37
11	0.54
12	0.18
13	0.09
14	0.24
15	0.47
16	1.11
17	1.19
18	0.62
19	0.17
20	0.23
21	0.03
22	0.06
23	0.23
24	0.65
25	0.02
26	0
27	0
28	0

2014	Precip. (in)
Mar	sum
1	0.01
2	0.56
3	0.41
4	0.54
5	1.34
6	0.36
7	0
8	1.08
9	0.44
10	0.61
11	0
12	0
13	0
14	0.25
15	0.18
16	1.04
17	0
18	0.02
19	0.24
20	0
21	0
22	0
23	0
24	0
25	0.12
26	0.16
27	0.28
28	0.47
29	0.79
30	0.09
31	0

2014	Precip. (in)
Apr	sum
1	0
2	0
3	0.07
4	0.08
5	0.18
6	0.02
7	0
8	0.21
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.18
17	0.53
18	0
19	0.5
20	0.02
21	0.5
22	0.62
23	0.35
24	0.27
25	0
26	0.09
27	0.4
28	0.03
29	0
30	0

2014	Precip. (in)
May	sum
1	0
2	0
3	0.66
4	0.48
5	0.08
6	0
7	0
8	0.5
9	0.31
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0.36
19	0
20	0
21	0
22	0
23	0.16

Precipitation Data

24	0
25	0.33
26	0.02
27	0
28	0.01
29	0
30	0
31	0

2014	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0
11	0
12	0.06
13	0.19
14	0
15	0
16	0.03
17	0.02
18	0
19	0
20	0.01
21	0
22	0
23	0.01
24	0
25	0
26	0.01
27	0.19
28	0.25
29	0
30	0

2014	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.54
24	0.01
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2014	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.78
14	0.01
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.5
31	0

2014	Precip. (in)
Sep	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0

Precipitation Data

17	0.03
18	0.01
19	0
20	0
21	0
22	0
23	0.67
24	0.7
25	0.06
26	0.42
27	0.01
28	0
29	0.08
30	0

2014	Precip. (in)
Oct	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0.03
11	0.36
12	0
13	0.21
14	0.28
15	0.32
16	0
17	0.06
18	0.08
19	0
20	0.29
21	0.04
22	1.14
23	0.34
24	0.35
25	0.26
26	0.15
27	0.02
28	0.51
29	0.08
30	0.48
31	0.66

2014	Precip. (in)
Nov	sum
1	0.01
2	0.13
3	0.62
4	0.14
5	0.19
6	0.28
7	0
8	0
9	0.58
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0.07
20	0.07
21	0.55
22	0.27
23	0.42
24	0.2
25	1.2
26	0.02
27	0.13
28	0.8
29	0.08
30	0

2014	Precip. (in)
Dec	sum
1	0
2	0
3	0
4	0.03
5	0.1
6	0.19
7	0
8	0.27
9	0.43
10	0.58
11	0.22
12	0.15
13	0
14	0
15	0
16	0.04
17	0.14
18	0.36
19	0.03
20	0.85
21	0.05
22	0.01
23	0.66
24	0.22
25	0.01
26	0.01
27	0.19
28	0
29	0.02
30	0
31	0

2015	Precip. (in)
Jan	sum
1	0
2	0.02
3	0.04
4	1.1
5	0.46
6	0
7	0.01
8	0
9	0
10	0.11

Precipitation Data

11	0.06
12	0
13	0
14	0
15	0.28
16	0.02
17	1
18	0.18
19	0.04
20	0
21	0
22	0.05
23	0.27
24	0.06
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Feb	sum
1	0.15
2	0.18
3	0
4	0.34
5	0.72
6	0.38
7	0.88
8	0.12
9	0.25
10	0.01
11	0
12	0.04
13	0
14	0.04
15	0
16	0
17	0
18	0
19	0.1
20	0.04
21	0
22	0
23	0
24	0
25	0.09
26	0.2
27	0.85
28	0

2015	Precip. (in)
Mar	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.07
12	0.01
13	0.05
14	0.67
15	1.36
16	0
17	0.04
18	0
19	0
20	0.14
21	0.19
22	0.14
23	0.22
24	0.26
25	0.18
26	0
27	0.17
28	0.01
29	0
30	0
31	0.08

2015	Precip. (in)
Apr	sum
1	0.07
2	0
3	0.15
4	0
5	0
6	0.05
7	0.08
8	0.2
9	0
10	0.26
11	0.08
12	0
13	0.26
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0.01
22	0.01
23	0.07
24	0.46
25	0.06
26	0.01
27	0.02
28	0.1
29	0
30	0

2015	Precip. (in)
May	sum
1	0
2	0
3	0
4	0.01
5	0.09
6	0

Precipitation Data

7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.13
14	0.01
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Jun	sum
1	0.05
2	0.09
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0

2015	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.01
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0.02
11	0
12	0
13	0
14	0.31
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0.03
29	1.01
30	0.66
31	0

2015	Precip. (in)

Precipitation Data

Sep	sum
1	0.3
2	0.11
3	0.09
4	0
5	0
6	0.17
7	0.11
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.09
17	0.21
18	0
19	0
20	0.02
21	0
22	0
23	0
24	0
25	0.3
26	0
27	0
28	0
29	0
30	0

2015	Precip. (in)
Oct	sum
1	0
2	0.04
3	0.04
4	0
5	0
6	0
7	0.29
8	0
9	0.03
10	0.46
11	0
12	0
13	0.05
14	0
15	0
16	0
17	0.08
18	0.04
19	0.14
20	0
21	0.01
22	0
23	0
24	0
25	0.29
26	0.35
27	0
28	0.23
29	0.17
30	0.81
31	1.78

2015	Precip. (in)
Nov	sum
1	0.5
2	0.13
3	0.01
4	0
5	0.03
6	0
7	0.17
8	0.23
9	0.03
10	0.01
11	0.16
12	0.13
13	1.28
14	1.96
15	0.63
16	0.19
17	1.26
18	0.06
19	0.06
20	0
21	0
22	0
23	0.08
24	0.22
25	0
26	0
27	0
28	0
29	0
30	0.01

2015	Precip. (in)
Dec	sum
1	0.5
2	0.1
3	0.45
4	0.24
5	0.26
6	0.24
7	1
8	1.96
9	0.45
10	0.5
11	0.07
12	0.58
13	0.09
14	0.06
15	0
16	0.11
17	0.97
18	0.78
19	0.07
20	0.13
21	0.99
22	0.3
23	0.29
24	0.17
25	0.05
26	0
27	0.29

Precipitation Data

28	0.03
29	0
30	0
31	0

2016	Precip. (in)
Jan	sum
1	0
2	0
3	0.01
4	0.32
5	0.16
6	0
7	0
8	0
9	0
10	0
11	0.1
12	0.31
13	0.46
14	0
15	0.09
16	0.34
17	0.28
18	0.04
19	0.36
20	0.44
21	0.68
22	0.18
23	0.77
24	0
25	0
26	0.04
27	0.5
28	0.68
29	0.24
30	0.12
31	0.02

2016	Precip. (in)
Feb	sum
1	0
2	0.02
3	0.27
4	0.24
5	0.21
6	0.21
7	0
8	0
9	0
10	0.04
11	0.48
12	0.34
13	0.5
14	0.22
15	0.1
16	0.07
17	0.39
18	0.1
19	0.35
20	0.1
21	0.14
22	0.15
23	0
24	0
25	0
26	0.2
27	0.36
28	0.57
29	0.12

2016	Precip. (in)
Mar	sum
1	0.79
2	0.2
3	0.02
4	0.13
5	0.12
6	0.16
7	0.26
8	0.17
9	0.63
10	0.27
11	0.28
12	0.19
13	0.31
14	0.6
15	0.01
16	0
17	0.16
18	0
19	0.02
20	0.16
21	0.22
22	0.03
23	0.23
24	0.32
25	0
26	0.15
27	0.02
28	0
29	0
30	0
31	0

2016	Precip. (in)
Apr	sum
1	0
2	0
3	0.15
4	0.16
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.49
13	0.03
14	0.26
15	0
16	0
17	0
18	0
19	0
20	0.02
21	0.01
22	0.2

Precipitation Data

2016	Precip. (in)
May	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.08
13	0
14	0
15	0.04
16	0
17	0
18	0
19	0.02
20	0
21	0.31
22	0.12
23	0
24	0
25	0
26	0
27	0
28	0.05
29	0.04
30	0
31	0

2016	Precip. (in)
Jun	sum
1	0.03
2	0.04
3	0
4	0
5	0
6	0
7	0
8	0
9	0.07
10	0.33
11	0.06
12	0
13	0.02
14	0.38
15	0.16
16	0
17	0.13
18	0.03
19	0
20	0.46
21	0
22	0
23	0.22
24	0.02
25	0
26	0
27	0
28	0
29	0
30	0

2016	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.19
9	0.1
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0.19
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2016	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.03
9	0
10	0
11	0
12	0
13	0
14	0
15	0

Precipitation Data

16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.04
2016	**Precip. (in)**
Sep	sum
1	0.11
2	0.25
3	0
4	0
5	0.02
6	0.37
7	0.01
8	0.01
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0.42
18	0
19	0.14
20	0
21	0
22	0
23	0.03
24	0
25	0
26	0
27	0.08
28	0
29	0
30	0
2016	**Precip. (in)**
Oct	sum
1	0.03
2	0.13
3	0.05
4	0.09
5	0.11
6	0.15
7	0.16
8	0.19
9	0.27
10	0.01
11	0
12	0
13	1.59
14	0.93
15	0.93
16	0.45
17	0.29
18	0.33
19	0.18
20	0.79
21	0.28
22	0.02
23	0.07
24	0.08
25	0.03
26	1.55
27	0
28	0.01
29	0.11
30	0.25
31	0.58
2016	**Precip. (in)**
Nov	sum
1	0.12
2	0.21

Exhibit 2

SMITH & LOWNEY, P.L.L.C.
2317 EAST JOHN STREET
SEATTLE, WASHINGTON 98112
(206) 860-2883, FAX (206) 860-4187

December 14, 2016

Via Certified Mail - Return Receipt Requested
Managing Agent
APM Terminals Pacific Ltd.
1675 Lincoln Ave.
Tacoma, WA 98421

Via Certified Mail - Return Receipt Requested
Managing Agent
APM Terminals Tacoma LLC
1675 Lincoln Ave.
Tacoma, WA 98421

Re: **NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT AND REQUEST FOR COPY OF STORMWATER POLLUTION PREVENTION PLAN**

Dear Managing Agent:

We represent Puget Soundkeeper Alliance (Soundkeeper), 130 Nickerson St., #107, Seattle, WA 98109, (206) 297-7002. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days notice of Soundkeeper's intent to file a citizen suit against APM Terminals Pacific Ltd. (APM) under section 505 of the Clean Water Act ("CWA"), 33 USC § 1365, for the violations described below. This letter is also a request for a copy of the complete and current stormwater pollution prevention plan ("SWPPP") required by APM's National Pollution Discharge Elimination System ("NPDES") permit.

APM was granted coverage on January 1, 2010 under the Washington Industrial Stormwater General Permit ("IGSP") issued by the Washington State Department of Ecology ("Ecology") on October 21, 2009, effective January 1, 2010, modified May 16, 2012, effective July 1, 2012, and set to expire on January 1, 2015, under NPDES Permit No. WAR-000307 (the "2010 Permit"). Ecology granted subsequent coverage under the current iteration of the ISGP, issued by Ecology on December 3, 2014, effective January 2, 2015, and set to expire on December 31, 2019 (the "2015 Permit") and maintains the same permit number, WAR-000307.

APM has violated and continues to violate the CWA (see Sections 301 and 402 of the CWA, 33 USC §§ 1311 and 1342) and the terms and conditions of the 2010 Permit and 2015 Permit (collectively, "Permits") with respect to operations of, and discharges of stormwater and pollutants from its facility located at or about 1675 Lincoln Ave, Tacoma, WA 98241 (the

"facility") as described herein, to the Sitcum Waterway, part of Commencement Bay and the Puget Sound. The facility subject to this notice includes any contiguous or adjacent properties owned or operated by APM.

I. COMPLIANCE WITH STANDARDS.

A. Violations of Water Quality Standards.

Condition S10.A of the Permits prohibits discharges that cause or contribute to violations of water quality standards. Water quality standards are the foundation of the CWA and Washington's efforts to protect clean water. In particular, water quality standards represent the U.S. Environmental Protection Agency ("EPA") and Ecology's determination, based on scientific studies, of the thresholds at which pollution starts to cause significant adverse effects on fish or other beneficial uses. For each water body in Washington, Ecology designates the "beneficial uses" that must be protected through the adoption of water quality standards.

A discharger must comply with both narrative and numeric criteria for water quality standards. WAC 173-201A-010; WAC 173-201A-510 ("No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria, except as provided for in this chapter."). Narrative water quality standards provide legal mandates that supplement the numeric criteria. Furthermore, the narrative water quality standard applies with equal force even if Ecology has established a numeric water quality standard. Specifically, Condition S10.A of the Permits requires that APM's discharges not cause or contribute to a violation of Washington State water quality standards.

APM discharges to the Sitcum Waterway via a stormwater conveyance system, comprising collection and conveyance facilities, such as catch basins and pipes which then discharges to Commencement Bay in the Puget Sound. APM discharges stormwater that contains elevated levels of copper, zinc, and total suspended solids ("TSS") as indicated in the table of benchmark exceedances below. These discharges cause and/or contribute to violations of water quality standards for copper and zinc in the Sitcum Waterway and Commencement Bay and have occurred each and every day during the last five years on which there was 0.1 inches or more of precipitation, and continue to occur. These water quality standards include those set forth in WAC 173-201A-210(e), 240(3) and 260(2)(a). Precipitation data from that time period is appended to this notice of intent to sue and identifies these days.

Table 1 – Benchmark Exceedances

Quarter in which sample collected (monitoring point)	TSS (Benchmark 30 mg/L)	Copper Concentration (Benchmark 14 ug/L)	Zinc (Benchmark 117 ug/L)
1st Quarter 2013 (B)*		**31.4**	

2nd Quarter 2013 (A13)*		31.4	
2nd Quarter 2013 (B)		27	
2nd Quarter 2013 (C)*		34.4	
3rd Quarter 2013 (A13)		23.5	
3rd Quarter 2013 (B)		19.2	145
3rd Quarter 2013 (C)		69.5	
4th Quarter 2013 (A13)		24.5	
4th Quarter 2013 (B)		30	
4th Quarter 2013 (C)		19.5	
1st Quarter 2014 (A13)		25.6	191
1st Quarter 2014 (B)		67.8	720
1st Quarter 2014 (C)		66.3	
2nd Quarter 2014 (B)		14.1	
2nd Quarter 2014 (C)		70	
3rd Quarter 2014 (A13)		23.5	
3rd Quarter 2014 (B)		19.2	145
3rd Quarter 2014 (C)		69.5	
4th Quarter 2014		55.1	

(C)			
2nd Quarter 2015 (A13)	**41.7**	**37**	**173**
2nd Quarter 2015 (B)		**52**	**400**
2nd Quarter 2015 (C)		**170**	
3rd Quarter 2015 (A)		**47.3**	**205**
3rd Quarter 2015 (B)	**41.9**	**64.7**	**620**
3rd Quarter 2015 (C)	**53.3**	**62**	
4th Quarter 2015 (A13)		**38.7**	**262**
4th Quarter 2015 (B)	**34.4**	**21.8**	**175**
4th Quarter 2015 (C)	**62.4**	**33.3**	
1st Quarter 2016 (A13)		**29.6**	
1st Quarter 2016 (C)		**17.6**	
2nd Quarter 2016 (A13)		**50.6**	**253**
2nd Quarter 2016 (B)		**20.7**	
2nd Quarter 2016 (C)		**22.4**	

*(A13), (B), and (C) are designations for Outfalls A13, B, and C.

Additionally, these discharges are causing or contributing to violations of sediment quality standards as set forth in WAC 173-204-320(2)(f) for the following pollutants: 1,2,4-Trichlorobenzene, 1,4-Dichlorobenzene, 2,4-Dimethylphenol, Dibenzo[a,h]anthracene, 2-Methylnaphthalene, 2-Methylphenol, Di-N-Octyl Phthalate, 4-Methylphenol, Pentachlorophenol, Hexachlorobenzene, Hexachlorobutadiene, Acenaphthene, Anthracene, Arsenic, Bis(2-Ethylhexyl) Phthalate, Benz[a]anthracene, Benzo[a]pyrene, Benzoic Acid,

Benzyl Alcohol, Benzo[g,h,i]perylene, Butyl benzyl phthalate, Cadmium, Chromium, Chrysene, Copper, Diethyl phthalate, Dibenzofuran, Dibutyl phthalate, Dimethyl phthalate, Fluoranthene, Fluorene, High Molecular Weight Polycyclic Aromatic Hydrocarbons (HPAH), Indeno(1,2,3-c,d)pyrene, Lead, Low Molecular Weight Polycyclic Aromatic Hydrocarbons (LPAH), Mercury, Naphthalene, N-Nitrosodiphenylamine, PCB, Phenanthrene, Phenol, Pyrene, Silver, Benzofluoranthenes, Total (b+k+j), Zinc, and Sediment Bioassay.

B. Compliance with Standards.

Condition S10.C of the Permits requires APM to apply all known and reasonable methods of prevention, control and treatment ("AKART") to all discharges, including preparation and implementation of an adequate SWPPP and best management practices ("BMPs"). APM has violated and continues to violate these conditions by failing to apply AKART to its discharges or to implement an adequate SWPPP and BMPs as evidenced by the elevated levels of pollutants in its discharge indicated in the table above and as described below in this notice of intent to sue.

Condition S1.A of the Permits requires that all discharges and activities authorized be consistent with the terms and conditions of the Permits. APM has violated these conditions by discharging and acting inconsistently with the conditions of the Permits as described in this Notice of Intent to Sue.

II. STORMWATER POLLUTION PREVENTION PLAN VIOLATIONS.

Condition S3.A.1 of the Permits requires APM to develop and implement a SWPPP as specified. Condition S3.A.2 of the Permits require the SWPPP to specify BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, APM has violated these requirements of the Permits each and every day during the last five years and continues to violate them as it has failed to prepare and/or implement a SWPPP that includes AKART BMPs and BMPs necessary to comply with state water quality standards.

Condition S3.A of the Permits requires APM to have and implement a SWPPP that is consistent with permit requirements, fully implemented as directed by permit conditions, and updated as necessary to maintain compliance with permit conditions. On information and belief, APM has violated these requirements of the Permits each and every day during the last five years and continues to violate them because its SWPPP is not consistent with permit requirements, has not been fully implemented and has not been updated as necessary.

The SWPPP fails to satisfy the requirements of Condition S3 of the Permits because it does not adequately describe BMPs. Condition S3.B.4 of the Permits requires that the SWPPP include a description of the BMPs that are necessary for the facility to eliminate or reduce the potential to contaminate stormwater. Condition S3.A.3 of the Permits requires that the SWPPP include BMPs consistent with approved stormwater technical manuals or document how stormwater BMPs included in the SWPPP are demonstratively equivalent to the practices contained in the approved stormwater technical manuals, including the proper

selection, implementation, and maintenance of all applicable and appropriate BMPs. APM's SWPPP does not comply with these requirements because it does not adequately describe BMPs and does not include BMPs consistent with approved stormwater technical manuals nor does it include BMPs that are demonstratively equivalent to such BMPs with documentation of BMP adequacy.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.2 of the Permits because it fails to include a facility assessment as mandated. The SWPPP fails to include an adequate facility assessment because it does not describe the industrial activities conducted at the site, the general layout of the facility including buildings and storage of raw materials, the flow of goods and materials through the facility, regular business hours and seasonal variations in business hours or in industrial activities as required.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.1 of the Permits because it does not include a site map that identifies significant features, the stormwater drainage and discharge structures, the stormwater drainage areas for each stormwater discharge point off-site, a unique identifying number for each discharge point, each sampling location with a unique identifying number, paved areas and buildings, areas of pollutant contact associated with specific industrial activities, conditionally approved non-stormwater discharges, surface water locations, areas of existing and potential soil erosion, vehicle maintenance areas, and lands and waters adjacent to the site that may be helpful in identifying discharge points or drainage routes.

APM's SWPPP fails to comply with Condition S3.B.2.b of the Permits because it does not include an inventory of industrial activities that identifies all areas associated with industrial activities that have been or may potentially be sources of pollutants as required. The SWPPP does not identify all areas associated with loading and unloading of dry bulk materials or liquids, outdoor storage of materials or products, outdoor manufacturing and processing, onsite dust or particulate generating processes, on-site waste treatment, storage, or disposal, vehicle and equipment fueling, maintenance, and/or cleaning, roofs or other surfaces exposed to air emissions from a manufacturing building or a process area, and roofs or other surfaces composed of materials that may be mobilized by stormwater as required by these conditions.

APM's SWPPP does not comply with Condition S3.B.2.c of the Permits because it does not include an adequate inventory of materials. The SWPPP does not include an inventory of materials that lists the types of materials handled at the site that potentially may be exposed to precipitation or runoff and that could result in stormwater pollution, a short narrative for material describing the potential for the pollutants to be present in stormwater discharge that is updated when data becomes available to verify the presence or absence of the pollutants, a narrative description of any potential sources of pollutants from past activities, materials and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to stormwater as required. The SWPPP does not include the method and location of on-site storage or disposal of such materials and a list of significant spills and significant leaks of toxic or hazardous pollutants as these permit conditions require.

APM's SWPPP does not comply with Condition S3.B.3 of the Permits because it does not identify specific individuals by name or title whose responsibilities include SWPPP development, implementation, maintenance, and modification.

Condition S3.B.4 of the 2010 Permit requires that permittees include in their SWPPPs and implement certain mandatory BMPs no later than July 1, 2010 unless site conditions render the BMP unnecessary, infeasible, or an alternative and equally effective BMP is provided. APM is in violation of this requirement because it has failed to include in its SWPPP and implement the mandatory BMPs of the 2010 Permit.

Condition S3.B.4 of the 2015 Permit requires that permittees include in their SWPPPs and implement certain mandatory BMPs and that the permittee explain in detail how and where the selected BMPs will be implemented. APM is in violation of this requirement because it has failed to include in its SWPPP and implement the mandatory BMPs of the 2015 Permit and has failed to explain in detail how and where these BMPs will be implemented.

APM's SWPPP does not comply with Condition S3.B.4.b.i of the Permits because it does not include required operational source control BMPs in the following categories: good housekeeping (including definition of ongoing maintenance and cleanup of areas that may contribute pollutants to stormwater discharges, and a schedule/frequency for each housekeeping task); preventive maintenance (including BMPs to inspect and maintain stormwater drainage, source controls, treatment systems, and plant equipment and systems, and the schedule/frequency for each task); spill prevention and emergency cleanup plan (including BMPs to prevent spills that can contaminate stormwater, for material handling procedures, storage requirements, cleanup equipment and procedures, and spill logs); employee training (including an overview of what is in the SWPPP, how employees make a difference in complying with the SWPPP, spill response procedures, good housekeeping, maintenance requirements, and material management practices, how training will be conducted, the frequency/schedule of training, and a log of the dates on which specific employees received training); inspections and recordkeeping (including documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, including identification of personnel who conduct inspections, provision of a tracking or follow-up procedure to ensure that a report is prepared and appropriate action taken in response to visual monitoring, definition of how APM will comply with signature and record retention requirements, and certification of compliance with the SWPPP and Permits).

APM's SWPPP does not comply with Condition S3.B.4.b.i.7 of the Permits because it does not include measures to identify and eliminate the discharge of process wastewater, domestic wastewater, noncontact cooling water, and other illicit discharges to stormwater sewers, or to surface waters and ground waters of the state.

APM's SWPPP does not comply with Condition S3.B.4.b.ii of the Permits because it does not include required structural source control BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff. APM's SWPPP does not comply with Condition S3.B.4.b.iii of the Permits because it does not include treatment BMPs as required.

APM's SWPPP fails to comply with Condition S3.B.4.b.v of the Permits because it does not include BMPs to prevent the erosion of soils or other earthen materials and prevent off-site sedimentation and violations of water quality standards.

APM's SWPPP fails to satisfy the requirements of Condition S3.B.5 Permits because it fails to include a stormwater sampling plan as required. The SWPPP does not include a sampling plan that identifies points of discharge to surface waters, storm sewers, or discrete ground water infiltration locations, documents why each discharge point is not sampled, identifies each sampling point by its unique identifying number, identifies staff responsible for conducting stormwater sampling, specifies procedures for sampling collection and handling, specifies procedures for sending samples to the a laboratory, identifies parameters for analysis, holding times and preservatives, laboratory quantization levels, and analytical methods, and that specifies the procedure for submitting the results to Ecology.

III. MONITORING AND REPORTING VIOLATIONS.

A. Failure to Collect Quarterly Samples.

Condition S4.B of the Permits requires APM to collect a sample of its stormwater discharge once during every calendar quarter. Conditions S3.B.5.b and S4.B.2.c of the Permits require APM to collect stormwater samples at each distinct point of discharge offsite except for substantially identical outfalls when documented in the SWPPP, in which case only one of the substantially identical outfalls must be sampled. These conditions set forth sample collection criteria, but require the collection of a sample even if the criteria cannot be met.

APM violated these requirements by failing to collect stormwater samples at any of its discharge points during the third quarter of 2012 and failing to collect stormwater samples from Outfall A13 during the first quarter of 2015. APM also violated these conditions by failing to sample at each distinct point of discharge, including but not limited to discharge points on the over-water wharf portion of the facility, during each and every calendar quarter for the last five years.

B. Failure to Analyze Quarterly Samples.

Condition S5.A.1, Table 2, Condition S6.C.2.a, and Table 7 of the Permits require APM to analyze stormwater samples collected quarterly for turbidity, pH, total copper, total zinc, and TSS. Condition S4.B.4.h.6 allows APM to suspend sampling for one or more parameters for a period of three years based on consistent attainment of benchmark values when eight consecutive quarterly samples demonstrate a reported value equal to or less than the benchmark value. Per Permit Condition S.4.B.4.h.6.b.i, for the purposes of tallying "consecutive quarterly samples," any quarter in which APM did not collect a sample but should have resets the tally of quarterly samples to zero.

APM is violating these conditions by failing to analyze stormwater samples from Outfall A13 for turbidity each and every quarter since the third quarter of 2013.

C. Failure to Timely Submit Discharge Monitoring Reports.

Condition S9.A of the Permits requires APM to use DMR forms provided or approved by Ecology to summarize, report and submit monitoring data to Ecology. For each monitoring period (calendar quarter) a DMR must be completed and submitted to Ecology not later than 45 days after the end of the monitoring period. APM has violated these conditions by failing to submit a DMR within the time prescribed for the fourth quarter of 2011, first quarter of 2012, second quarter of 2012, fourth quarter of 2012, first quarter of 2013, third quarter of 2013, fourth quarter of 2013, first quarter of 2014, second quarter of 2014, third quarter of 2014, and the fourth quarter of 2014.

D. Failure to Comply with Visual Monitoring Requirements.

Condition S7.A of the Permits requires that monthly visual inspection be conducted at the facility by qualified personnel. Each inspection is to include observations made at stormwater sampling locations and areas where stormwater associated with industrial activity is discharged, observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in the stormwater discharges, observations for the presence of illicit discharges, a verification that the descriptions of potential pollutant sources required by the permit are accurate, a verification that the site map in the SWPPP reflects current conditions, and an assessment of all BMPs that have been implemented (noting the effectiveness of the BMPs inspected, the locations of BMPs that need maintenance, the reason maintenance is needed and a schedule for maintenance, and locations where additional or different BMPs are needed).

Condition S7.C of the Permits requires that APM record the results of each inspection in an inspection report or checklist that is maintained on-site and that documents the observations, verifications, and assessments required. The report/checklist must include the time and date of the inspection, the locations inspected, a statement that, in the judgment of the person conducting the inspection and the responsible corporate officer, the facility is either in compliance or out of compliance with the SWPPP and the Permits, a summary report and schedule of implementation of the remedial actions that APM plans to take if the site inspection indicates that the facility is out of compliance, the name, title, signature and certification of the person conducting the facility inspection, and a certification and signature of the responsible corporate officer or a duly authorized representative.

APM is in violation of these requirements of Condition S7 of the Permits because, during the last five years, it has failed to conduct each of the requisite visual monitoring and inspections, failed to prepare and maintain the requisite inspection reports or checklists, and failed to make the requisite certifications and summaries.

E. Failure to Comply with Storm Drain Solids Sampling and Reporting Requirements

Condition S6.C.2.d of the 2015 Permit requires that permittees who discharge to Puget Sound Sediment Cleanup Sites remove accumulated solids from storm drain lines owned or controlled by the permittee at least once prior to October 1, 2016. Condition S6.C.2.e of the 2015 Permit requires permittees sample and analyze storm drain solids in accordance with Table 8 of the 2015 Permit at least once prior to October 1, 2016. Condition S6.C.2.f of the 2015 Permit requires that all storm drain solids sampling data shall be reported to Ecology on a Solids Monitoring Report (SMR) no later than the DMR due date for the reporting period in which the solids were sampled, in accordance with Condition S9.A of the 2015 Permit.

APM is in violation of these Conditions by failing to sample and analyze its storm drain solids at least once prior to October 1, 2016. APM is also in violation of these Conditions for failing to timely submit an SMR to Ecology after completing line jetting activities sometime in the first or second quarter of 2016.

IV. CORRECTIVE ACTION VIOLATIONS.

A. Violations of the Level One Requirements of the Permits.

Condition S8.B of the Permits requires APM take specified actions, called a "Level One Corrective Action," each time quarterly stormwater sample results exceed a benchmark value or are outside the benchmark range.

As described by Condition S8.B of the Permits, a Level One Corrective Action requires APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits and contains the correct BMPs from the applicable Stormwater Management Manual; (2) make appropriate revisions to the SWPPP to include additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the Level One Corrective Action in the Annual Report required under Condition S9.B of the Permits. Condition S8.B.3 of the Permits requires APM implement the revised SWPPP as soon as possible, and no later than the DMR due date for the quarter the benchmark was exceeded.

Condition S5.A and Table 2 of the Permits establish the following benchmarks: turbidity 25 NTU; pH 5 – 9 SU; total copper 14 µg/L; and total zinc 117 µg/L. Condition S6.C.2.a and Table 7 of the Permits establish the following additional benchmark that is applicable to APM: TSS 30 mg/L.

APM has violated the requirements of the Permits described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark ranges, including the benchmark exceedances listed in Table 1 above.

B. Violations of the Level Two Requirements of the Permits.

Condition S8.C of the Permits requires APM take specified actions, called a "Level Two Corrective Action," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for any two quarters during a calendar year.

As described by Condition S8.C of the Permits, a Level Two Corrective Action requires that APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional structural source control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the Level Two Corrective Action (planned or taken) in the Annual Report required under Condition S9.B of the Permits. Condition S8.C.4 of the Permits requires APM implement the revised SWPPP according to Condition S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than August 31st of the following year.

The Permits establish the benchmarks applicable to APM described in section IV.A of this notice of intent to sue letter.

APM has violated the requirements of the Permits described above by failing to conduct a Level Two Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, including additional structural source control BMPs, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for any two quarters during a calendar year. As indicated in Table 1 above, these violations include, but are not limited to, APM's failure to fulfill these obligations for zinc triggered by its stormwater sampling during calendar year 2014; for copper triggered by its stormwater sampling during calendar years 2013, 2014, 2015; and TSS triggered by its stormwater sampling during calendar year 2015.

C. Violations of the Level Three Requirements of the Permits.

Condition S8.D of the Permits requires APM to take specified actions, called a "Level Three Corrective Action," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for any three quarters during a calendar year.

As described by Condition S8.D of the Permits, a Level Three Corrective Action requires that APM: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional treatment BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and additional operational and/or structural source control BMPs if necessary for proper function and maintenance of treatment BMPs, and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the Permits; and (3) summarize the

Level Three Corrective Action (planned or taken) in the Annual Report required under Condition S9.B of the Permits, including information on how monitoring, assessment, or evaluation information was (or will be) used to determine whether existing treatment BMPs will be modified/enhanced, or if new/additional treatment BMPs will be installed. Condition S8.D.2.b of the Permits requires that a licensed professional engineer, geologist, hydrogeologist, of certified professional in storm water quality must design and stamp the portion of the SWPPP that addresses stormwater treatment structures or processes.

Condition S8.D.3 of the Permits requires that, before installing BMPs that require the site-specific design or sizing of structures, equipment, or processes to collect, convey, treat, reclaim, or dispose of industrial stormwater, APM submit an engineering report, plans, and specifications, and an operations and maintenance manual to Ecology for review in accordance with chapter 173-204 of the Washington Administrative Code. The engineering report must be submitted no later than the May 15th prior to the Level Three Corrective Action Deadline. The plans and specifications and the operations and maintenance manual must be submitted to Ecology at least 30 days before construction/installation.

Condition S8.D.5 of the Permits requires APM fully implement the revised SWPPP according to Condition S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than September 30th of the following year.

The Permits establish the benchmarks applicable to APM described in section IV.A of this notice of intent to sue letter.

APM has violated the requirements of the Permits described above by failing to conduct a Level Three Corrective Action in accordance with permit conditions, including the required review, revision, and certification of the SWPPP, including the requirement to have a specified professional design and stamp the portion of the SWPPP pertaining to treatment, the required implementation of additional BMPs, including additional treatment BMPs, the required submission of an engineering report, plans, specifications, and an operations and maintenance plan, and the required summarization in the annual report each time since January 1, 2010, its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for any three quarters during a calendar year. As indicated in Table 1 above, these violations include, but are not limited to, APM's failure to fulfill these obligations for copper triggered by its stormwater sampling during calendar years 2013, 2014, and 2015; zinc triggered by its stormwater sampling during calendar year 2015; and TSS triggered by its stormwater sampling during calendar year 2015.

Soundkeeper is aware that Ecology has granted APM an extension for its Level 3 Corrective Action triggered by its 2015 exceedances. Although this extension has been granted, it was granted illegally, and will be declared void. Additionally, the extension is conditional. APM will not meet the conditions of the extension, so the extension will be invalid.

V. VIOLATIONS OF THE ANNUAL REPORT REQUIREMENTS.

Condition S9.B of the Permits requires APM to submit an accurate and complete annual report to Ecology no later than May 15th of each year. The annual report must include corrective action documentation as required in Condition S8.B – D of the Permits. If a corrective action is not yet completed at the time of submission of the annual report, APM must describe the status of any outstanding corrective action. Specific information to be included in the annual report is identification of the conditions triggering the need for corrective action, description of the problem and identification of dates discovered, summary of any Level One, Two, or Three corrective actions completed during the previous calendar year, including the dates corrective actions completed, and description of the status of any Level Two or Three corrective actions triggered during the previous calendar year, including identification of the date APM expects to complete corrective actions.

APM has violated this condition. The annual report submitted by APM for 2014 (in May 2015) does not include the required information. Specifically, APM does not provide a description of the stormwater problems and the dates the problems were discovered, the description of the Level Three Corrective Actions taken are insufficient, and despite identifying uncompleted Level Two and Three Corrective Actions, no dates for completion of those Actions are specified. The annual report submitted by APM for 2015 (in May 2016) does not include the required information. Specifically, APM does not provide a description of the stormwater problems and the dates the problems were discovered.

VI. VIOLATIONS OF THE RECORDKEEPING REQUIREMENTS.

A. Failure to Record Information.

Condition S4.B.3 of the Permits requires APM to record and retain specified information for each stormwater sample taken, including the sample date and time, a notation describing if APM collected the sample within the first 30 minutes of stormwater discharge event, an explanation of why APM could not collect a sample within the first 30 minutes of a stormwater discharge event, the sample location, method of sampling and of preservation, and the individual performing the sampling. Upon information and belief, APM is in violation of these conditions as it has not recorded each of these specified items for each sample taken during the last five years.

B. Failure to Retain Records.

Condition S9.C of the Permits requires APM to retain for a minimum of five years a copy of the Permits, a copy of APM's coverage letter, records of all sampling information, inspection reports including required documentation, any other documentation of compliance with permit requirements, all equipment calibration records, all BMP maintenance records, all original recordings for continuous sampling instrumentation, copies of all laboratory results, copies of all required reports, and records of all data used to complete the application for the Permits. Upon information and belief, APM is in violation of these conditions because it has

failed to retain records of such information, reports, and other documentation during the last five years.

VII. NON-STORMWATER DISCHARGE VIOLATIONS

Condition S5.E of the Permits prohibits illicit discharges by APM. The Permits define "illicit discharge" as "any discharge that is not composed entirely of stormwater except (1) discharges authorized pursuant to a separate NPDES Permit, or (2) conditionally authorized stormwater discharges identified in Condition S5.D." Condition S7.B.3 requires APM to notify Ecology of any illicit discharge that is discovered within seven days of the discovery, and to eliminate the illicit discharge within thirty days. Illicit discharges by APM are also a violation of section 301 of the CWA, 33 U.S.C. § 1311. APM is in violation of these Conditions and section 301 of the CWA for illicit discharges of decant water into the stormwater conveyance system for every such illicit discharge that has occurred during the last five years.

VIII. REQUEST FOR SWPPP.

Pursuant to Condition S9.F of the Permits, Puget Soundkeeper hereby requests that APM provide a copy of, or access to, its SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to the undersigned at the letterhead address.

Should APM fail to provide the requested complete copy of, or access to, its SWPPP as required by Condition S9.F of the Permits, it will be in violation of that condition, which violation shall also be subject to this Notice of Intent to Sue and any ensuing lawsuit.

IX. CONCLUSION.

The above-described violations reflect those indicated by the information currently available to Puget Soundkeeper. These violations are ongoing. Puget Soundkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Pursuant to Sections 309(d) and 505(a) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19 and 19.4, each of the above-described violations subjects the violator to a penalty of up to $37,500 per day for each violation for violations committed through November 2, 2015 and up to $51,570 per day for each violation committed thereafter. In addition to civil penalties, Puget Soundkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 USC § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 USC § 1365(d), permits prevailing parties to recover costs, including attorney's fees.

Puget Soundkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against APM under Section 505(a) of the Clean Water Act for violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations addressed in this letter and settlement terms. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within 10 days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed promptly. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Very truly yours,

SMITH & LOWNEY, PLLC

By: _____
Knoll Lowney
Alyssa Englebrecht

cc: Gina McCarthy, Administrator, U.S. EPA
Dennis McLerran, Region 10 Administrator, U.S. EPA
Maia Bellon, Director, Washington Department of Ecology
CT Corporation System, Registered Agent (505 Union Avenue SE, Ste 120, Olympia, WA 98501)
Christopher McAuliffe, Attorney for APM Terminals Tacoma LLC (502 Carnegie Center, Princeton, NJ 08540)

Precipitation Data

2011	Precip. (in)
Nov	sum
1	0
2	0.43
3	0.01
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0
11	0.19
12	0.11
13	0.14
14	0.01
15	0
16	0.36
17	0.38
18	0
19	0.02
20	0
21	0.24
22	1.99
23	0.69
24	0.45
25	0
26	0.02
27	0.42
28	0
29	0.06
30	0

2011	Precip. (in)
Dec	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0.01
11	0.01
12	0
13	0
14	0
15	0.05
16	0
17	0
18	0.07
19	0
20	0
21	0
22	0
23	0
24	0.01
25	0.13
26	0.07
27	0.61
28	0.72
29	0.42
30	0.37
31	0

2012	Precip. (in)
Jan	sum
1	0
2	0.11
3	0.01
4	0.44
5	0.15
6	0.02
7	0
8	0
9	0.27
10	0.03
11	0
12	0
13	0
14	0.19
15	0.07
16	0.05
17	0.35
18	0.58
19	0.65
20	0.38
21	0.17
22	0.11
23	0
24	0.45
25	0.29
26	0.17
27	0
28	0
29	0.95
30	0.04
31	0.1

2012	Precip. (in)
Feb	sum
1	0.36
2	0
3	0
4	0
5	0
6	0
7	0.04
8	0.16
9	0.2
10	0.12
11	0.01
12	0.06
13	0.13
14	0.06
15	0
16	0.14
17	0.47
18	0.42
19	0
20	0.11
21	0.26
22	0.1
23	0
24	0.31
25	0.02
26	0
27	0

Precipitation Data

28	0.08
29	0.25

2012	Precip. (in)
Mar	sum
1	0
2	0.01
3	0
4	0
5	0.35
6	0.04
7	0
8	0
9	0
10	0.34
11	0.4
12	0.48
13	0.22
14	0.21
15	0.59
16	0.3
17	0.51
18	0.04
19	0.03
20	0.4
21	0.08
22	0.96
23	0
24	0
25	0
26	11.38
27	0.04
28	0.08
29	1.19
30	0.23
31	0.48

2012	Precip. (in)
Apr	sum
1	0.07
2	0
3	0.18
4	0.01
5	0.03
6	0
7	0
8	0
9	0
10	0
11	0.23
12	0.01
13	0
14	0
15	0
16	0.34
17	0.1
18	0.12
19	0.59
20	0.3
21	0
22	0
23	0
24	0.03
25	0.55
26	0.26
27	0.04
28	0
29	0.16
30	0.31

2012	Precip. (in)
May	sum
1	0.14
2	0.01
3	0.62
4	0.02
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0.25
21	0.73
22	0.23
23	0.26
24	0
25	0
26	0
27	0
28	0.02
29	0
30	0
31	0.15

2012	Precip. (in)
Jun	sum
1	0.27
2	0.04
3	0
4	0.05
5	0.27
6	0
7	0.58
8	0.2
9	0
10	0
11	0
12	0.1
13	0
14	0
15	0
16	0.02
17	0
18	0.01
19	0.02
20	0
21	0
22	0.18

Precipitation Data

2012 Jul	Precip. (in) sum
1	0
2	0.03
3	0.13
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0.01
14	0
15	0
16	0.11
17	0
18	0
19	0
20	0.62
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012 Aug	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012 Sep	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.45
24	0
25	0.03
26	0
27	0
28	0.01
29	0
30	0.06

2012 Oct	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.05
13	0.32
14	0.29
15	0.33
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0.01
30	0

Precipitation Data

17	0
18	0.33
19	0.17
20	0.18
21	0.24
22	0.33
23	0
24	0.17
25	0
26	0.13
27	0.76
28	0.23
29	0.59
30	0.92
31	0.42

2012	Precip. (in)
Nov	sum
1	0.53
2	0.23
3	0.02
4	0.11
5	0.05
6	0.02
7	0
8	0
9	0
10	0
11	0.64
12	0.07
13	0.14
14	0
15	0
16	0.18
17	0.33
18	0.36
19	1.73
20	0.11
21	0.27
22	0.02
23	0.73
24	0.01
25	0
26	0
27	0
28	0.07
29	0.1
30	1.04

2012	Precip. (in)
Dec	sum
1	0.32
2	0.51
3	0.36
4	0.54
5	0.11
6	0.25
7	0.22
8	0
9	0.09
10	0.06
11	0.17
12	0
13	0.05
14	0.22
15	0.05
16	0.91
17	0.27
18	0.21
19	0.76
20	0.35
21	0.01
22	0.08
23	0.27
24	0.02
25	0.44
26	0.25
27	0.01
28	0
29	0.09
30	0
31	0

2013	Precip. (in)
Jan	sum
1	0
2	0
3	0.1
4	0.02
5	0.05
6	0.12
7	0.12
8	0.22
9	0.81
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.12
24	0.15
25	0.1
26	0.01
27	0.09
28	0.14
29	0.13
30	0.15
31	0.05

2013	Precip. (in)
Feb	sum
1	0
2	0
3	0.02
4	0
5	0.12
6	0.05
7	0.05
8	0
9	0

Precipitation Data

10	0
11	0.02
12	0
13	0.03
14	0
15	0
16	0.03
17	0.02
18	0
19	0.01
20	0.08
21	0.09
22	0.49
23	0
24	0.01
25	0.12
26	0
27	0.1
28	0.56

2013	Precip. (in)
Mar	sum
1	0.02
2	0.09
3	0
4	0
5	0.03
6	0.43
7	0.23
8	0
9	0
10	0.05
11	0.08
12	0.09
13	0.15
14	0.05
15	0.15
16	0.13
17	0.06
18	0.01
19	0.32
20	0.51
21	0.01
22	0
23	0
24	0
25	0
26	0
27	0
28	0.15
29	0
30	0
31	0

2013	Precip. (in)
Apr	sum
1	0
2	0
3	0
4	0.18
5	0.9
6	0.58
7	0.91
8	0
9	0
10	0.22
11	0
12	0.24
13	0.11
14	0.35
15	0
16	0
17	0
18	0.05
19	0.47
20	0
21	0.03
22	0
23	0
24	0
25	0
26	0
27	0.03
28	0.1
29	0.02
30	0

2013	Precip. (in)
May	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.1
13	0.29
14	0
15	0.06
16	0
17	0.25
18	0.09
19	0.03
20	0
21	0.51
22	0.53
23	0.5
24	0.22
25	0.01
26	0.4
27	0.4
28	0.1
29	0.28
30	0.24
31	0

2013	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0

Precipitation Data

6	0
7	0
8	0
9	0
10	0
11	0.05
12	0.2
13	0.12
14	0
15	0
16	0
17	0
18	0.01
19	0
20	0.12
21	0
22	0
23	0.65
24	0.26
25	0.26
26	0.02
27	0.26
28	0.01
29	0
30	0

2013	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2013	Precip. (in)
Aug	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0.06
11	0
12	0
13	0
14	0.09
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.04
27	0
28	0.24
29	0.4
30	0
31	0

2013	Precip. (in)
Sep	sum
1	0
2	0
3	0.42
4	0.01
5	0.59
6	1.44
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.06
17	0
18	0
19	0
20	0.15
21	0
22	0.57
23	0.14
24	0.34
25	0.24
26	0
27	0.05
28	1.65
29	0.59
30	1.53

2013	Precip. (in)

Precipitation Data

Oct	sum
1	0.68
2	0.17
3	0.03
4	0
5	0
6	0.03
7	0.15
8	0.07
9	0
10	0.04
11	0
12	0.16
13	0
14	0
15	0
16	0
17	0
18	0
19	0.01
20	0.01
21	0
22	0
23	0.01
24	0.01
25	0
26	0.01
27	0.03
28	0
29	0
30	0
31	0.05

2013	Precip. (in)
Nov	sum
1	0.01
2	0.52
3	0
4	0.04
5	0.08
6	0.12
7	0.72
8	0
9	0.05
10	0.01
11	0
12	0.16
13	0.04
14	0.02
15	0.24
16	0.01
17	0.6
18	0.46
19	0.09
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.07

2013	Precip. (in)
Dec	sum
1	0.47
2	0
3	0.01
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.29
13	0.02
14	0
15	0.04
16	0
17	0
18	0
19	0
20	0.37
21	0.14
22	0.02
23	0.08
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.04

2014	Precip. (in)
Jan	sum
1	0.01
2	0.13
3	0
4	0
5	0
6	0.14
7	0.51
8	0.33
9	0.3
10	0.24
11	0.98
12	0.12
13	0.02
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0

Precipitation Data

27	0
28	0.37
29	0.78
30	0.08
31	0.05

2014	Precip. (in)
Feb	sum
1	0.03
2	0
3	0
4	0
5	0
6	0
7	0
8	0.05
9	0.18
10	0.37
11	0.54
12	0.18
13	0.09
14	0.24
15	0.47
16	1.11
17	1.19
18	0.62
19	0.17
20	0.23
21	0.03
22	0.06
23	0.23
24	0.65
25	0.02
26	0
27	0
28	0

2014	Precip. (in)
Mar	sum
1	0.01
2	0.56
3	0.41
4	0.54
5	1.34
6	0.36
7	0
8	1.08
9	0.44
10	0.61
11	0
12	0
13	0
14	0.25
15	0.18
16	1.04
17	0
18	0.02
19	0.24
20	0
21	0
22	0
23	0
24	0
25	0.12
26	0.16
27	0.28
28	0.47
29	0.79
30	0.09
31	0

2014	Precip. (in)
Apr	sum
1	0
2	0
3	0.07
4	0.08
5	0.18
6	0.02
7	0
8	0.21
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.18
17	0.53
18	0
19	0.5
20	0.02
21	0.5
22	0.62
23	0.35
24	0.27
25	0
26	0.09
27	0.4
28	0.03
29	0
30	0

2014	Precip. (in)
May	sum
1	0
2	0
3	0.66
4	0.48
5	0.08
6	0
7	0
8	0.5
9	0.31
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0.36
19	0
20	0
21	0
22	0
23	0.16

Precipitation Data

24	0
25	0.33
26	0.02
27	0
28	0.01
29	0
30	0
31	0

2014	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0
11	0
12	0.06
13	0.19
14	0
15	0
16	0.03
17	0.02
18	0
19	0
20	0.01
21	0
22	0
23	0.01
24	0
25	0
26	0.01
27	0.19
28	0.25
29	0
30	0

2014	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.54
24	0.01
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2014	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.78
14	0.01
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.5
31	0

2014	Precip. (in)
Sep	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0

Precipitation Data

17	0.03
18	0.01
19	0
20	0
21	0
22	0
23	0.67
24	0.7
25	0.06
26	0.42
27	0.01
28	0
29	0.08
30	0

2014	Precip. (in)
Oct	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0.03
11	0.36
12	0
13	0.21
14	0.28
15	0.32
16	0
17	0.06
18	0.08
19	0
20	0.29
21	0.04
22	1.14
23	0.34
24	0.35
25	0.26
26	0.15
27	0.02
28	0.51
29	0.08
30	0.48
31	0.66

2014	Precip. (in)
Nov	sum
1	0.01
2	0.13
3	0.62
4	0.14
5	0.19
6	0.28
7	0
8	0
9	0.58
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0.07
20	0.07
21	0.55
22	0.27
23	0.42
24	0.2
25	1.2
26	0.02
27	0.13
28	0.8
29	0.08
30	0

2014	Precip. (in)
Dec	sum
1	0
2	0
3	0
4	0.03
5	0.1
6	0.19
7	0
8	0.27
9	0.43
10	0.58
11	0.22
12	0.15
13	0
14	0
15	0
16	0.04
17	0.14
18	0.36
19	0.03
20	0.85
21	0.05
22	0.01
23	0.66
24	0.22
25	0.01
26	0.01
27	0.19
28	0
29	0.02
30	0
31	0

2015	Precip. (in)
Jan	sum
1	0
2	0.02
3	0.04
4	1.1
5	0.46
6	0
7	0.01
8	0
9	0
10	0.11

Precipitation Data

11	0.06
12	0
13	0
14	0
15	0.28
16	0.02
17	1
18	0.18
19	0.04
20	0
21	0
22	0.05
23	0.27
24	0.06
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015 Feb	Precip. (in) sum
1	0.15
2	0.18
3	0
4	0.34
5	0.72
6	0.38
7	0.88
8	0.12
9	0.25
10	0.01
11	0
12	0.04
13	0
14	0.04
15	0
16	0
17	0
18	0
19	0.1
20	0.04
21	0
22	0
23	0
24	0
25	0.09
26	0.2
27	0.85
28	0

2015 Mar	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.07
12	0.01
13	0.05
14	0.67
15	1.36
16	0
17	0.04
18	0
19	0
20	0.14
21	0.19
22	0.14
23	0.22
24	0.26
25	0.18
26	0
27	0.17
28	0.01
29	0
30	0
31	0.08

2015 Apr	Precip. (in) sum
1	0.07
2	0
3	0.15
4	0
5	0
6	0.05
7	0.08
8	0.2
9	0
10	0.26
11	0.08
12	0
13	0.26
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0.01
22	0.01
23	0.07
24	0.46
25	0.06
26	0.01
27	0.02
28	0.1
29	0
30	0

2015 May	Precip. (in) sum
1	0
2	0
3	0
4	0.01
5	0.09
6	0

Precipitation Data

7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.13
14	0.01
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Jun	sum
1	0.05
2	0.09
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0

2015	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.01
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0.02
11	0
12	0
13	0
14	0.31
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0.03
29	1.01
30	0.66
31	0

2015	Precip. (in)

Precipitation Data

Sep	sum
1	0.3
2	0.11
3	0.09
4	0
5	0
6	0.17
7	0.11
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.09
17	0.21
18	0
19	0
20	0.02
21	0
22	0
23	0
24	0
25	0.3
26	0
27	0
28	0
29	0
30	0

2015	Precip. (in)
Oct	sum
1	0
2	0.04
3	0.04
4	0
5	0
6	0
7	0.29
8	0
9	0.03
10	0.46
11	0
12	0
13	0.05
14	0
15	0
16	0
17	0.08
18	0.04
19	0.14
20	0
21	0.01
22	0
23	0
24	0
25	0.29
26	0.35
27	0
28	0.23
29	0.17
30	0.81
31	1.78

2015	Precip. (in)
Nov	sum
1	0.5
2	0.13
3	0.01
4	0
5	0.03
6	0
7	0.17
8	0.23
9	0.03
10	0.01
11	0.16
12	0.13
13	1.28
14	1.96
15	0.63
16	0.19
17	1.26
18	0.06
19	0.06
20	0
21	0
22	0
23	0.08
24	0.22
25	0
26	0
27	0
28	0
29	0
30	0.01

2015	Precip. (in)
Dec	sum
1	0.5
2	0.1
3	0.45
4	0.24
5	0.26
6	0.24
7	1
8	1.96
9	0.45
10	0.5
11	0.07
12	0.58
13	0.09
14	0.06
15	0
16	0.11
17	0.97
18	0.78
19	0.07
20	0.13
21	0.99
22	0.3
23	0.29
24	0.17
25	0.05
26	0
27	0.29

Precipitation Data

28	0.03
29	0
30	0
31	0

2016	Precip. (in)
Jan	sum
1	0
2	0
3	0.01
4	0.32
5	0.16
6	0
7	0
8	0
9	0
10	0
11	0.1
12	0.31
13	0.46
14	0
15	0.09
16	0.34
17	0.28
18	0.04
19	0.36
20	0.44
21	0.68
22	0.18
23	0.77
24	0
25	0
26	0.04
27	0.5
28	0.68
29	0.24
30	0.12
31	0.02

2016	Precip. (in)
Feb	sum
1	0
2	0.02
3	0.27
4	0.24
5	0.21
6	0.21
7	0
8	0
9	0
10	0.04
11	0.48
12	0.34
13	0.5
14	0.22
15	0.1
16	0.07
17	0.39
18	0.1
19	0.35
20	0.1
21	0.14
22	0.15
23	0
24	0
25	0
26	0.2
27	0.36
28	0.57
29	0.12

2016	Precip. (in)
Mar	sum
1	0.79
2	0.2
3	0.02
4	0.13
5	0.12
6	0.16
7	0.26
8	0.17
9	0.63
10	0.27
11	0.28
12	0.19
13	0.31
14	0.6
15	0.01
16	0
17	0.16
18	0
19	0.02
20	0.16
21	0.22
22	0.03
23	0.23
24	0.32
25	0
26	0.15
27	0.02
28	0
29	0
30	0
31	0

2016	Precip. (in)
Apr	sum
1	0
2	0
3	0.15
4	0.16
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.49
13	0.03
14	0.26
15	0
16	0
17	0
18	0
19	0
20	0.02
21	0.01
22	0.2

Precipitation Data

2016 May	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.08
13	0
14	0
15	0.04
16	0
17	0
18	0
19	0.02
20	0
21	0.31
22	0.12
23	0
24	0
25	0
26	0
27	0
28	0.05
29	0.04
30	0
31	0

2016 Jun	Precip. (in) sum
1	0.03
2	0.04
3	0
4	0
5	0
6	0
7	0
8	0
9	0.07
10	0.33
11	0.06
12	0
13	0.02
14	0.38
15	0.16
16	0
17	0.13
18	0.03
19	0
20	0.46
21	0
22	0
23	0.22
24	0.02
25	0
26	0
27	0
28	0
29	0
30	0

2016 Jul	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.19
9	0.1
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0.19
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2016 Aug	Precip. (in) sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.03
9	0
10	0
11	0
12	0
13	0
14	0
15	0

Precipitation Data

16	0	26	0
17	0	27	0.08
18	0	28	0
19	0	29	0
20	0	30	0
21	0	**2016**	**Precip. (in)**
22	0	Oct	sum
23	0	1	0.03
24	0	2	0.13
25	0	3	0.05
26	0	4	0.09
27	0	5	0.11
28	0	6	0.15
29	0	7	0.16
30	0	8	0.19
31	0.04	9	0.27
2016	**Precip. (in)**	10	0.01
Sep	sum	11	0
1	0.11	12	0
2	0.25	13	1.59
3	0	14	0.93
4	0	15	0.93
5	0.02	16	0.45
6	0.37	17	0.29
7	0.01	18	0.33
8	0.01	19	0.18
9	0	20	0.79
10	0	21	0.28
11	0	22	0.02
12	0	23	0.07
13	0	24	0.08
14	0	25	0.03
15	0	26	1.55
16	0	27	0
17	0.42	28	0.01
18	0	29	0.11
19	0.14	30	0.25
20	0	31	0.58
21	0	**2016**	**Precip. (in)**
22	0	Nov	sum
23	0.03	1	0.12
24	0	2	0.21
25	0		

Exhibit 3

SMITH & LOWNEY, P.L.L.C.
2317 EAST JOHN STREET
SEATTLE, WASHINGTON 98112
(206) 860-2883, FAX (206) 860-4187

July 20, 2017

Via Certified Mail - Return Receipt Requested
Commissioners Connie Bacon, Don Johnson, Dick Marzano, Don Meyer, and Clare Petrich
Port of Tacoma
P.O. Box 1837
Tacoma, WA 98401

Re: **NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT**

Dear Commissioners Connie Bacon, Don Johnson, Dick Marzano, Don Meyer, and Clare Petrich:

We represent Puget Soundkeeper Alliance (Soundkeeper), 130 Nickerson St., #107, Seattle, WA 98109, (206) 297-7002. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days notice of Soundkeeper's intent to file a citizen suit against the Port of Tacoma (the "Port") under section 505 of the Clean Water Act ("CWA"), 33 USC § 1365, for the violations described below, or amend our claims in Western District of Washington Case No. 3:17-cv-05016-BHS to include the violations described below.

I. Violations of the CWA as alleged in Western District of Washington Case No. 3:17-cv-05016-BHS

Soundkeeper filed its Amended Complaint against APM Terminals Tacoma, LLC ("APM") on February 21, 2017 alleging violations of Sections 301(a) and 402 of the CWA, attached hereto as Attachment A (W.D. Wash. Case No. 3:17-cv-05016-BHS). Soundkeeper intends to show that the Port exerts substantial control over the operations at APM, and therefore, is also responsible for the violations of the CWA as alleged in Attachment A.

II. Unpermitted Discharges

The CWA, 33 U.S.C. §§ 1311 and 1342, prohibits the discharge of pollutants, including stormwater associated with industrial activity, to waters of the United States, except as authorized by a National Pollutant Discharge Elimination System ("NPDES") permit. The Port has violated and continues to violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging pollutants from its marine cargo terminal located at or about 1675 Lincoln Ave, Tacoma, WA 98241 (the "facility" or "site") to waters of the United States without a NPDES permit. The facility subject to this notice includes any contiguous or adjacent properties owned or operated by the Port.

The Port discharges industrial stormwater and pollutants to the Sitcum Waterway, part of Commencement Bay and the Puget Sound directly and/or via a stormwater drainage system. On information and belief these pollutants include turbidity, suspended and dissolved solids, oxygen demanding substances, and metals, including copper and zinc. These violations of the CWA have occurred on each day during the last five years, through the present during which there was a stormwater discharge from the facility, generally including days on which there has been at least 0.1 inch of precipitation, and continue to occur. Precipitation data from identifying such days is appended to this notice of intent to sue. The violations alleged in this Notice of Intent to Sue will continue until the Port obtains and comes into compliance with a NPDES permit authorizing such discharges.[1]

III. Industrial Stormwater General Permit requirements

The Washington Department of Ecology ("Ecology") authorizes discharges of stormwater associated with certain industrial activities under the Industrial Stormwater General Permit, including stormwater discharged from marine cargo handling facilities. The site is a marine cargo terminal. Stormwater and pollutants discharged from the site are "stormwater discharges associated with industrial activity" subject to the 33 U.S.C. § 1311(a) prohibition on discharges of pollutants without NPDES permit authorization. *See also,* 33 U.S.C. §1342(p) and 40 C.F.R. § 122.26(a), (b)(14), and (c). The current Industrial Stormwater General Permit ("2015 Permit") was issued by Ecology on December 3, 2014, effective January 2, 2015, and set to expire on December 31, 2019. The previous Industrial Stormwater General Permit ("2010 Permit") was issued by Ecology on October 21, 2009, effective January 1, 2010, modified May 16, 2012, effective July 1, 2012, and set to expire on January 1, 2015. The 2010 Permit includes condition substantially similar to those of the 2015 Permit.

Should the Port have or obtain 2015 Permit coverage for the facility, compliance with the 2015 Permit requires the Port to correct the deficiencies identified below. Soundkeeper hereby provides notice of its intent to sue for these violations of the 2015 Permit.

A. Compliance with standards.

Condition S10.C of the 2015 Permit requires permittees to apply all known and reasonable methods of prevention, control and treatment ("AKART") to all discharges, including preparation and implementation of an adequate stormwater pollution prevention plan ("SWPPP") and best management practices ("BMPs"). On information and belief, the Port has not applied AKART to its discharges or implemented adequate BMPs at the facility, including structural source control BMPs to minimize the exposure of pollutants to precipitation, and stormwater treatment BMPs to remove pollutants prior to discharge.

[1] Soundkeeper is aware of the Port's Phase I Municipal Stormwater NPDES Permit ("MS4 Permit"), but the MS4 Permit does not permit stormwater discharges associated with industrial activities (detailed in this letter). A municipality's MS4 Permit does not supersede or eliminate the requirement for the municipality to comply with an industrial stormwater NPDES permit when the municipality is engaged in industrial activities that result in an industrial stormwater discharge.

B. Stormwater Pollution Prevention Plan

Condition S3.A.1 of the 2015 Permit requires permittees to develop and implement a SWPPP as specified. Condition S3.A.2 specifies that the SWPPP must indicate the BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, the Port has not prepared and implemented a SWPPP that specifies AKART and ensures discharges do not cause or contribute to violations of water quality standards.

Condition S3.A.3.a of the 2015 Permit requires that BMPs in a permittee's SWPPP be consistent with the Stormwater Management Manual for Western Washington (2012 edition) ("SWMMWW"), which is available on the internet at http://www.ecy.wa.gov/programs/wq/stormwater/manual.html. Alternatively, the SWPPP must include documentation that the BMPs included therein are demonstratively equivalent to those described in the SWMMWW, including proper selection, implementation and maintenance. On information and belief, the Port has not prepared and is not implementing a SWPPP that is consistent with this manual or that is demonstratively equivalent thereto, including the housekeeping and other operational BMPs, the structural source control BMPs, and the stormwater treatment BMPs identified in the SWMMWW.

Condition S3.B.4.b of the 2015 Permit identifies mandatory BMPs that must be included in the SWPPP and implemented, unless the permittee clearly justifies why each omitted mandatory BMP is unnecessary, infeasible, or replaced by alternative and equally effective BMPs. On information and belief, the Port is not implementing several BMPs identified in the 2015 Permit, including preventive maintenance BMPs to maintain the stormwater drainage systems, including a schedule or frequency for each maintenance task (S3.B.4.b.3.), having a spill prevention and emergency cleanup plan (S3.B.4.b.i.4.), provisions for employee training, including a training log (S3.B.4.b.i.5.), provisions for facility inspections, regular compliance certification, and recordkeeping (S3.B.4.b.i.6.), adequate measures to identify and eliminate the discharge of process wastewater (S3.B.4.b.i.7.), the "applicable" BMPs from the SWMMWW (S3.B.4.b.ii.1.), and location of industrial materials and activities inside or protecting them with storm resistant coverings (S3.B.4.b.ii.2.).

C. Monitoring

Condition S4.B.2 of the 2015 Permit requires permittees to sample quarterly each distinct point of discharge off-site except as otherwise exempt from monitoring as a "substantially identical outfall" per 2015 Permit Condition S3.B.5.b. Condition S4.B.3 of the 2015 Permit requires permittees to record and retain specified information about each stormwater sample taken, including a notation describing if they collected the sample within the first 12 hours of stormwater discharge events and, if not, an explanation why not. Conditions S4.A and B of the 2015 Permit require permittees to collect stormwater samples no less than once per quarter. Condition S4 of the 2010 Permit included a substantially similar sample collection requirement. Condition S9.A of the 2015 Permit requires permittees to report results of analysis of these samples to Ecology on specified forms (Discharge Monitoring Reports, or "DMRs") on a specified schedule. Condition S9.A of the 2010 Permit

included a substantially similar requirement. The Port has not collected stormwater discharge samples and/or reported the results to Ecology on DMRs.

IV. Conclusion

The above-described violations reflect those indicated by the information currently available to Soundkeeper. These violations are ongoing. Soundkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this notice of intent to sue.

Under Section 309(d) of the CWA, 33 USC § 1319(d), each of the above-described violations subjects the violator to a penalty of up to $37,500 per day for each violation for violations committed through November 2, 2015 and up to $52,414 per day for each violation committed thereafter. In addition to civil penalties, Soundkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 USC § 1365(a) and (d), and such other relief as is permitted by law. Section 505(d) of the CWA, 33 USC § 1365(d), also permits prevailing parties to recover costs, including attorney's fees.

Soundkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against the Port under Section 505(a) of the Clean Water Act for violations. During the 60-day notice period, we would be willing to discuss effective remedies for the violations addressed in this letter and settlement terms, however; we do not intend to delay the filing of a complaint or the amending of the complaint in W.D. Wash. Case No. 3:17-cv-05016-BHS if discussions are continuing when the notice period ends. To initiate those discussions you may contact us by phone or mail (see letterhead), or by e-mail at alyssa@smithandlowney.com or knoll@smithandlowney.com.

Sincerely,

SMITH & LOWNEY, PLLC

By: _____
Knoll Lowney
Alyssa Englebrecht

cc: Scott Pruitt, Administrator, U.S. EPA
Michelle Pirzadeh, Administrator, Region 10 U.S. EPA
Maia Bellon, Director, Washington Department of Ecology

Precipitation Data

2012	Precip. (in)
Jul	sum
20	0.62
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2012	Precip. (in)
Sep	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0.01
30	0

2012	Precip. (in)
Oct	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.05
13	0.32
14	0.29
15	0.33
16	0
17	0
18	0.33
19	0.17
20	0.18
21	0.24
22	0.33
23	0
24	0.17
25	0
26	0.13
27	0.76
28	0.23
29	0.59
30	0.92
31	0.42

2012	Precip. (in)
Nov	sum
1	0.53
2	0.23
3	0.02
4	0.11
5	0.05
6	0.02
7	0
8	0
9	0

Precipitation Data

10	0
11	0.64
12	0.07
13	0.14
14	0
15	0
16	0.18
17	0.33
18	0.36
19	1.73
20	0.11
21	0.27
22	0.02
23	0.73
24	0.01
25	0
26	0
27	0
28	0.07
29	0.1
30	1.04

2012	Precip. (in)
Dec	sum
1	0.32
2	0.51
3	0.36
4	0.54
5	0.11
6	0.25
7	0.22
8	0
9	0.09
10	0.06
11	0.17
12	0
13	0.05
14	0.22
15	0.05
16	0.91
17	0.27
18	0.21
19	0.76
20	0.35
21	0.01
22	0.08
23	0.27
24	0.02
25	0.44
26	0.25
27	0.01
28	0
29	0.09
30	0
31	0

2013	Precip. (in)
Jan	sum
1	0
2	0
3	0.1
4	0.02
5	0.05
6	0.12
7	0.12
8	0.22
9	0.81
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.12
24	0.15
25	0.1
26	0.01
27	0.09
28	0.14
29	0.13
30	0.15
31	0.05

2013	Precip. (in)
Feb	sum
1	0
2	0
3	0.02
4	0
5	0.12
6	0.05
7	0.05
8	0
9	0
10	0
11	0.02
12	0
13	0.03
14	0
15	0
16	0.03
17	0.02
18	0
19	0.01
20	0.08
21	0.09
22	0.49
23	0
24	0.01
25	0.12
26	0
27	0.1
28	0.56

2013	Precip. (in)
Mar	sum
1	0.02
2	0.09
3	0
4	0
5	0.03

Precipitation Data

6	0.43
7	0.23
8	0
9	0
10	0.05
11	0.08
12	0.09
13	0.15
14	0.05
15	0.15
16	0.13
17	0.06
18	0.01
19	0.32
20	0.51
21	0.01
22	0
23	0
24	0
25	0
26	0
27	0
28	0.15
29	0
30	0
31	0

2013	Precip. (in)
Apr	sum
1	0
2	0
3	0
4	0.18
5	0.9
6	0.58
7	0.91
8	0
9	0
10	0.22
11	0
12	0.24
13	0.11
14	0.35
15	0
16	0
17	0
18	0.05
19	0.47
20	0
21	0.03
22	0
23	0
24	0
25	0
26	0
27	0.03
28	0.1
29	0.02
30	0

2013	Precip. (in)
May	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.1
13	0.29
14	0
15	0.06
16	0
17	0.25
18	0.09
19	0.03
20	0
21	0.51
22	0.53
23	0.5
24	0.22
25	0.01
26	0.4
27	0.4
28	0.1
29	0.28
30	0.24
31	0

2013	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.05
12	0.2
13	0.12
14	0
15	0
16	0
17	0
18	0.01
19	0
20	0.12
21	0
22	0
23	0.65
24	0.26
25	0.26
26	0.02
27	0.26
28	0.01
29	0
30	0

2013	Precip. (in)

Precipitation Data

Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2013	Precip. (in)
Aug	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0.06
11	0
12	0
13	0
14	0.09
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.04
27	0
28	0.24
29	0.4
30	0
31	0

2013	Precip. (in)
Sep	sum
1	0
2	0
3	0.42
4	0.01
5	0.59
6	1.44
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.06
17	0
18	0
19	0
20	0.15
21	0
22	0.57
23	0.14
24	0.34
25	0.24
26	0
27	0.05
28	1.65
29	0.59
30	1.53

2013	Precip. (in)
Oct	sum
1	0.68
2	0.17
3	0.03
4	0
5	0
6	0.03
7	0.15
8	0.07
9	0
10	0.04
11	0
12	0.16
13	0
14	0
15	0
16	0
17	0
18	0
19	0.01
20	0.01
21	0
22	0
23	0.01
24	0.01
25	0
26	0.01

Precipitation Data

27	0.03
28	0
29	0
30	0
31	0.05

2013	Precip. (in)
Nov	sum
1	0.01
2	0.52
3	0
4	0.04
5	0.08
6	0.12
7	0.72
8	0
9	0.05
10	0.01
11	0
12	0.16
13	0.04
14	0.02
15	0.24
16	0.01
17	0.6
18	0.46
19	0.09
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.07

2013	Precip. (in)
Dec	sum
1	0.47
2	0
3	0.01
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.29
13	0.02
14	0
15	0.04
16	0
17	0
18	0
19	0
20	0.37
21	0.14
22	0.02
23	0.08
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.04

2014	Precip. (in)
Jan	sum
1	0.01
2	0.13
3	0
4	0
5	0
6	0.14
7	0.51
8	0.33
9	0.3
10	0.24
11	0.98
12	0.12
13	0.02
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0.37
29	0.78
30	0.08
31	0.05

2014	Precip. (in)
Feb	sum
1	0.03
2	0
3	0
4	0
5	0
6	0
7	0
8	0.05
9	0.18
10	0.37
11	0.54
12	0.18
13	0.09
14	0.24
15	0.47
16	1.11
17	1.19
18	0.62
19	0.17
20	0.23

Precipitation Data

21	0.03
22	0.06
23	0.23
24	0.65
25	0.02
26	0
27	0
28	0

2014	Precip. (in)
Mar	sum
1	0.01
2	0.56
3	0.41
4	0.54
5	1.34
6	0.36
7	0
8	1.08
9	0.44
10	0.61
11	0
12	0
13	0
14	0.25
15	0.18
16	1.04
17	0
18	0.02
19	0.24
20	0
21	0
22	0
23	0
24	0
25	0.12
26	0.16
27	0.28
28	0.47
29	0.79
30	0.09
31	0

2014	Precip. (in)
Apr	sum
1	0
2	0
3	0.07
4	0.08
5	0.18
6	0.02
7	0
8	0.21
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.18
17	0.53
18	0
19	0.5
20	0.02
21	0.5
22	0.62
23	0.35
24	0.27
25	0
26	0.09
27	0.4
28	0.03
29	0
30	0

2014	Precip. (in)
May	sum
1	0
2	0
3	0.66
4	0.48
5	0.08
6	0
7	0
8	0.5
9	0.31
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0.36
19	0
20	0
21	0
22	0
23	0.16
24	0
25	0.33
26	0.02
27	0
28	0.01
29	0
30	0
31	0

2014	Precip. (in)
Jun	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0.01
10	0
11	0
12	0.06
13	0.19
14	0
15	0

Precipitation Data

16	0.03
17	0.02
18	0
19	0
20	0.01
21	0
22	0
23	0.01
24	0
25	0
26	0.01
27	0.19
28	0.25
29	0
30	0

2014	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0.54
24	0.01
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2014	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.78
14	0.01
15	0.03
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0.5
31	0

2014	Precip. (in)
Sep	sum
1	0
2	0.03
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0.03
18	0.01
19	0
20	0
21	0
22	0
23	0.67
24	0.7
25	0.06
26	0.42
27	0.01
28	0
29	0.08
30	0

2014	Precip. (in)
Oct	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0

Precipitation Data

9	0.01
10	0.03
11	0.36
12	0
13	0.21
14	0.28
15	0.32
16	0
17	0.06
18	0.08
19	0
20	0.29
21	0.04
22	1.14
23	0.34
24	0.35
25	0.26
26	0.15
27	0.02
28	0.51
29	0.08
30	0.48
31	0.66

2014	Precip. (in)
Nov	sum
1	0.01
2	0.13
3	0.62
4	0.14
5	0.19
6	0.28
7	0
8	0
9	0.58
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0.07
20	0.07
21	0.55
22	0.27
23	0.42
24	0.2
25	1.2
26	0.02
27	0.13
28	0.8
29	0.08
30	0

2014	Precip. (in)
Dec	sum
1	0
2	0
3	0
4	0.03
5	0.1
6	0.19
7	0
8	0.27
9	0.43
10	0.58
11	0.22
12	0.15
13	0
14	0
15	0
16	0.04
17	0.14
18	0.36
19	0.03
20	0.85
21	0.05
22	0.01
23	0.66
24	0.22
25	0.01
26	0.01
27	0.19
28	0
29	0.02
30	0
31	0

2015	Precip. (in)
Jan	sum
1	0
2	0.02
3	0.04
4	1.1
5	0.46
6	0
7	0.01
8	0
9	0
10	0.11
11	0.06
12	0
13	0
14	0
15	0.28
16	0.02
17	1
18	0.18
19	0.04
20	0
21	0
22	0.05
23	0.27
24	0.06
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Feb	sum
1	0.15
2	0.18

Precipitation Data

3	0
4	0.34
5	0.72
6	0.38
7	0.88
8	0.12
9	0.25
10	0.01
11	0
12	0.04
13	0
14	0.04
15	0
16	0
17	0
18	0
19	0.1
20	0.04
21	0
22	0
23	0
24	0
25	0.09
26	0.2
27	0.85
28	0

2015	Precip. (in)
Mar	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0.07
12	0.01
13	0.05
14	0.67
15	1.36
16	0
17	0.04
18	0
19	0
20	0.14
21	0.19
22	0.14
23	0.22
24	0.26
25	0.18
26	0
27	0.17
28	0.01
29	0
30	0
31	0.08

2015	Precip. (in)
Apr	sum
1	0.07
2	0
3	0.15
4	0
5	0
6	0.05
7	0.08
8	0.2
9	0
10	0.26
11	0.08
12	0
13	0.26
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0.01
22	0.01
23	0.07
24	0.46
25	0.06
26	0.01
27	0.02
28	0.1
29	0
30	0

2015	Precip. (in)
May	sum
1	0
2	0
3	0
4	0.01
5	0.09
6	0
7	0
8	0
9	0
10	0
11	0.01
12	0.34
13	0.13
14	0.01
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)

Precipitation Data

Jun	sum
1	0.05
2	0.09
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0

2015	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0.01
27	0
28	0
29	0
30	0
31	0

2015	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0.02
11	0
12	0
13	0
14	0.31
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0.3
26	0

2015	Precip. (in)
Sep	sum
1	0.3
2	0.11
3	0.09
4	0
5	0
6	0.17
7	0.11
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0.09
17	0.21
18	0
19	0
20	0.02
21	0
22	0
23	0
24	0
25	0.3
26	0

Precipitation Data

27	0
28	0
29	0
30	0

2015	Precip. (in)
Oct	sum
1	0
2	0.04
3	0.04
4	0
5	0
6	0
7	0.29
8	0
9	0.03
10	0.46
11	0
12	0
13	0.05
14	0
15	0
16	0
17	0.08
18	0.04
19	0.14
20	0
21	0.01
22	0
23	0
24	0
25	0.29
26	0.35
27	0
28	0.23
29	0.17
30	0.81
31	1.78

2015	Precip. (in)
Nov	sum
1	0.5
2	0.13
3	0.01
4	0
5	0.03
6	0
7	0.17
8	0.23
9	0.03
10	0.01
11	0.16
12	0.13
13	1.28
14	1.96
15	0.63
16	0.19
17	1.26
18	0.06
19	0.06
20	0
21	0
22	0
23	0.08
24	0.22
25	0
26	0
27	0
28	0
29	0
30	0.01

2015	Precip. (in)
Dec	sum
1	0.5
2	0.1
3	0.45
4	0.24
5	0.26
6	0.24
7	1
8	1.96
9	0.45
10	0.5
11	0.07
12	0.58
13	0.09
14	0.06
15	0
16	0.11
17	0.97
18	0.78
19	0.07
20	0.13
21	0.99
22	0.3
23	0.29
24	0.17
25	0.05
26	0
27	0.29
28	0.03
29	0
30	0
31	0

2016	Precip. (in)
Jan	sum
1	0
2	0
3	0.01
4	0.32
5	0.16
6	0
7	0
8	0
9	0
10	0
11	0.1
12	0.31
13	0.46
14	0
15	0.09
16	0.34
17	0.28
18	0.04
19	0.36
20	0.44

Precipitation Data

21	0.68
22	0.18
23	0.77
24	0
25	0
26	0.04
27	0.5
28	0.68
29	0.24
30	0.12
31	0.02

2016	Precip. (in)
Feb	sum
1	0
2	0.02
3	0.27
4	0.24
5	0.21
6	0.21
7	0
8	0
9	0
10	0.04
11	0.48
12	0.34
13	0.5
14	0.22
15	0.1
16	0.07
17	0.39
18	0.1
19	0.35
20	0.1
21	0.14
22	0.15
23	0
24	0
25	0
26	0.2
27	0.36
28	0.57
29	0.12

2016	Precip. (in)
Mar	sum
1	0.79
2	0.2
3	0.02
4	0.13
5	0.12
6	0.16
7	0.26
8	0.17
9	0.63
10	0.27
11	0.28
12	0.19
13	0.31
14	0.6
15	0.01
16	0
17	0.16
18	0
19	0.02
20	0.16
21	0.22
22	0.03
23	0.23
24	0.32
25	0
26	0.15
27	0.02
28	0
29	0
30	0
31	0

2016	Precip. (in)
Apr	sum
1	0
2	0
3	0.15
4	0.16
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.49
13	0.03
14	0.26
15	0
16	0
17	0
18	0
19	0
20	0.02
21	0.01
22	0.2
23	0.15
24	0.35
25	0.01
26	0
27	0
28	0
29	0.01
30	0

2016	Precip. (in)
May	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0.08
13	0
14	0
15	0.04
16	0

Precipitation Data

17	0
18	0
19	0.02
20	0
21	0.31
22	0.12
23	0
24	0
25	0
26	0
27	0
28	0.05
29	0.04
30	0
31	0

2016	Precip. (in)
Jun	sum
1	0.03
2	0.04
3	0
4	0
5	0
6	0
7	0
8	0
9	0.07
10	0.33
11	0.06
12	0
13	0.02
14	0.38
15	0.16
16	0
17	0.13
18	0.03
19	0
20	0.46
21	0
22	0
23	0.22
24	0.02
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2016	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.19
9	0.1
10	0.01
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0.19
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0

2016	Precip. (in)
Aug	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0.12
8	0.03
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.04

2016	Precip. (in)
Sep	sum
1	0.11
2	0.25
3	0
4	0
5	0.02
6	0.37
7	0.01
8	0.01
9	0
10	0

Precipitation Data

11	0	22	0.02	Dec	sum
12	0	23	0.07	1	0.01
13	0	24	0.08	2	0.08
14	0	25	0.03	3	0.32
15	0	26	1.55	4	0.12
16	0	27	0	5	0.08
17	0.42	28	0.01	6	0.03
18	0	29	0.11	7	0
19	0.14	30	0.25	8	0.05
20	0	31	0.58	9	0.33
21	0	**2016**	**Precip. (in)**	10	0.19
22	0	Nov	sum	11	0.12
23	0.03	1	0.12	12	0.07
24	0	2	0.21	13	0.01
25	0	3	0.01	14	0
26	0	4	0	15	0
27	0.08	5	1.38	16	0
28	0	6	0.01	17	0
29	0	7	0.05	18	0
30	0	8	0	19	0.55
2016	**Precip. (in)**	9	0.09	20	0.03
Oct	sum	10	0.01	21	0
1	0.03	11	0	22	0.17
2	0.13	12	0.03	23	0.54
3	0.05	13	0.33	24	0
4	0.09	14	0.42	25	0
5	0.11	15	1.21	26	0.16
6	0.15	16	0.11	27	0.12
7	0.16	17	0	28	0
8	0.19	18	0	29	0.04
9	0.27	19	0.01	30	0
10	0.01	20	0.02	31	0.06
11	0	21	0.14	**2017**	**Precip. (in)**
12	0	22	0.38	Jan	sum
13	1.59	23	0.14	1	0.17
14	0.93	24	0.89	2	0
15	0.93	25	0.02	3	0
16	0.45	26	0.34	4	0
17	0.29	27	0.28	5	0
18	0.33	28	0	6	0
19	0.18	29	0.02	7	0
20	0.79	30	0.16	8	0.34
21	0.28	**2016**	**Precip. (in)**	9	0

Precipitation Data

10	0.18
11	0
12	0
13	0
14	0
15	0
16	0
17	1.19
18	0.74
19	0.06
20	0
21	0.07
22	0.01
23	0
24	0
25	0.04
26	0
27	0
28	0
29	0.01
30	0.01
31	0.01

2017	Precip. (in)
Feb	sum
1	0
2	0
3	0.57
4	0.64
5	0.81
6	0.4
7	0
8	0.62
9	0.95
10	0.11
11	0
12	0
13	0
14	0.24
15	1.15
16	0.85
17	0
18	0.32
19	0.14
20	0.32
21	0.26
22	0
23	0.01
24	0
25	0
26	0.26
27	0.14
28	0

2017	Precip. (in)
Mar	sum
1	0.13
2	0.12
3	0.44
4	0.07
5	0.03
6	0.23
7	0.56
8	0.18
9	0.87
10	0.05
11	0.25
12	0
13	0.59
14	0.44
15	0.85
16	0
17	0.5
18	0.49
19	0
20	0.06
21	0.26
22	0.05
23	0.27
24	0.17
25	0.05
26	0.5
27	0.07
28	0.19
29	0.48
30	0
31	0

2017	Precip. (in)
Apr	sum
1	0.1
2	0
3	0
4	0.17
5	0.38
6	0.14
7	0.07
8	0.1
9	0
10	0.12
11	0
12	1.04
13	0.2
14	0.3
15	0.01
16	0
17	0.07
18	0.41
19	0.35
20	0.16
21	0
22	0.08
23	0.15
24	0.09
25	0.06
26	0.06
27	0.12
28	0.02
29	0.23
30	0

2017	Precip. (in)
May	sum
1	0.02
2	0.08
3	0.05
4	0.28
5	0.03
6	0
7	0
8	0
9	0
10	0

Precipitation Data

11	0.46
12	0.19
13	0.1
14	0.26
15	0.33
16	0.27
17	0
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0
31	0.1

2017	Precip. (in)
Jun	sum
1	0.09
2	0
3	0
4	0
5	0
6	0
7	0.02
8	0.41
9	0.16
10	0
11	0
12	0
13	0
14	0
15	0.62
16	0.06
17	0.04
18	0.01
19	0
20	0

21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	0
29	0
30	0

2017	Precip. (in)
Jul	sum
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0.06